

**Department of
Public Works**

19-026

CITY OF FLINT MICHIGAN



CONTRACT

**Lang Constructors
Phase VI Water Service Line
Replacements – 5 Zones
\$5,221,907.50
Approved by City Council 4/8/19
Resolution #190120**





CITY OF FLINT

Department of Purchases & Supplies

Dr. Karen Weaver
Mayor

Joyce A. McClane
Purchasing Manager

April 22, 2019

TO: Robert Bincsik, Director
Public Works & Utilities

FROM: Joyce A. McClane *JAM*
Purchasing Manager

SUBJECT: NOTICE TO ENTER INTO A CONTRACT – LANG CONSTRUCTORS

Please be advised that the abovementioned vendor has been approved by City Council on April 8, 2019 for 2019 Phase VI service line replacements in five zones in an amount not to exceed \$5,221,907.50. You are now authorized to enter into a contract with Lang Constructors, Inc. for said services.

If you have any questions, please feel free to give me a call.

Attachment



190120

(Proposal #19000558)

SUBMISSION NO. _____

PRESENTED: 4-3-19

ADOPTED: 4-08-2019

BY THE CITY ADMINISTRATOR:

RESOLUTION TO LANG CONSTRUCTORS, INC.
FOR 2019 PHASE VI - SERVICE LINE REPLACEMENTS IN FIVE (5) ZONES

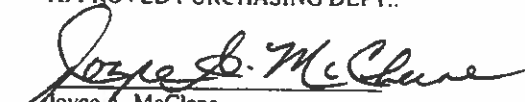
RESOLUTION

The Department of Purchases & Supplies has solicited a proposal for 2019 Phase VI service line replacements as requested by the Utilities Department; and

Lang Constructors, Inc., 9145 Corunna Road, Flint, Michigan was one of two (2) contractors whose proposal is being selected for servicing five (5) zones of the ten (10) service line replacement zones from the seven (7) proposals submitted for said requirements. Funding for said services will come from the following account: 496-540.210-801.057; and

IT IS RESOLVED, that the Proper City Officials, upon City Council's approval, are hereby authorized to enter into a contract with Lang Constructors, Inc. for servicing five (5) zones of the ten (10) service line replacement zones in an amount not to exceed \$5,221,907.50 contingent upon the award of additional funding from the Water Infrastructure Improvement for the Nation (WIIN) grant by the Michigan Department of Environmental Quality to the City of Flint Water Fund.

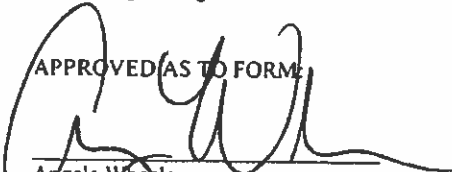
APPROVED PURCHASING DEPT.:


Joyce A. McClane
Purchasing Manager


APPROVED AS TO FINANCE:


Ayunna Dompheh
Deputy Chief Financial Officer

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator


Herbert J. Winfrey, President
City Council



**Agreement between the City of Flint
And Lang Constructors**

This agreement (hereinafter "Agreement") is made between the City of Flint, a Michigan Municipal Corporation, 1101 S. Saginaw Street, Flint, MI 48502, (hereinafter the "City"), and Lang Constructors, Inc., 9145 Corunna Rd., Flint, MI 48532 hereinafter referred to as "Contractor" or "Proposer."

1. Applicable Law: This Agreement and all related disputes shall be governed by and interpreted in accordance with the laws of the State of Michigan.

2. Arbitration: Contractor agrees that for all claims, disputes, and other matters arising out of or relating to this agreement, Contractor must request the City's consent to arbitrate within 30 days from the date the Contractor knows or should have known the facts giving rise to the claim, dispute or question.

(a) Notice of a request for arbitration must be submitted in writing by certified mail or personal service upon the City Attorney.

(b) Within 60 days from the date a request for arbitration is received by the City, the City shall inform Contractor whether it agrees to arbitrate. If the City does not consent, Contractor may proceed with an action in a court of competent jurisdiction within the State of Michigan. If the City does consent, then within 30 days of the consent each party shall submit to the other the name of one person to serve as an arbitrator. The two arbitrators together shall then select a third person, the three together shall then serve as a panel in all proceedings. Any unanimous decision of the three arbitrators shall be a final binding decision. The City's failure to respond to a timely, conforming request for arbitration is deemed consent to arbitration.

(c) The costs of the arbitration shall be split and borne equally between the parties and such costs are not subject to shifting by the arbitrator.

(d) Contractor's failure to comply with any portion (including timeliness) of this provision shall be deemed a permanent waiver and forfeiture of the claim, dispute, or question.

(e) These provisions shall survive the termination or expiration of this agreement.

3. City Income Tax Withholding: Contractor and any subcontractor engaged in this contract shall withhold from each payment to his employees the City income tax on all of their compensation subject to City tax, after giving effect to exemptions, as follows:

(a) Residents of the City: At a rate equal to 1% of all compensation paid to the employee who is a resident of the City of Flint.

(b) Non-residents: At a rate equal to ½ % of the compensation paid to the employee for work done or services performed in the City of Flint.



These taxes shall be held in trust and paid over to the City of Flint in accordance with City ordinances and State law. Any failure to do so shall constitute a material breach of this contract.

4. Compensation: The City shall pay for such services as have been set forth herein within 30 days of submission of completed approved invoices, releases, affidavits, and the like. Notwithstanding, the contract price shall not to exceed \$5,221,907.50. Contractor recognizes that the City does not guarantee it will require any set amount of services. Contractor's services will be utilized as needed and as determined solely by the City of Flint. Contractor expressly acknowledges that it, without limitation, has no right to payment of an amount exceeding the amount set forth in this Section. Contractor agrees that oral agreements by City officials to pay a greater amount are not binding. Contractor also confirms agreement that any cancellation of funding by State of Michigan based or federally based funding sources for this project would allow an immediate cancellation of this contract.

A. Contractor will submit itemized invoices by the 8th of each month, reflecting all work completed in the previous week which must include:

- (i) The dates of service.
- (ii) The addresses completed.
- (iii) The name of the company providing the service and a general description of the service provided.
- (iv) The unit rate and the total amount due.
- (v) All household addresses eligible for the CHIP program must be identified and billed as such.
- (vi) Addresses eligible to be billed under the CHIP program must be listed separately from other addresses; either all together in a distinct section of each invoice with its own subtotal, or on separate invoices.
- (vii) Any corrections, credits or additional charges must be billed on separate invoices from the standard line replacement charges.
- (viii) Invoices must be submitted simultaneously to Accounts Payable located in the City's Finance Department, DPW Accounting Supervisor, and Rowe Professional Services. Invoices can be submitted to the City of Flint Finance Department in person at:

1101 S. Saginaw St.
Finance, 2nd Fl, Rm 203
Flint, MI 48502

By way of US Postal Service to:

City of Flint
Accounts Payable
P.O. Box 246
Flint, MI 48501-0246



And/Or by email to: accountspayable@cityofflint.com

Invoices must be submitted to the City of Flint DPW Accounting Supervisor to the attention of Yolanda Gray, DPW Accounting Supervisor at:

ygray@cityofflint.com

And:

Invoices must be submitted to Rowe Professional Services to Jeff Markstrom at:

JMarkstrom@rowepsc.com

It is solely within the discretion of the City as to whether Contractor has provided a proper invoice. The City may require additional information or waive requirements as it sees fit.

B. The City shall make payments to the Contractor as specified herein:

(i) As of the day agreed to each month during which satisfactory progress has been made toward the final completion of the project, the Contractor shall submit to the City an application for payment based upon the amount and value of the work which has been done under this contract during that month or since the date of the past previous estimate.

The Contractor shall submit, along with such application for payment, waiver of lien or sworn affidavits or other vouchers showing payments for materials and labor, payments to subcontractors and such other evidence of the Contractor's right to payment application, the city will pay to the Contractor an amount of such application except that the City may deduct and retain out of any such partial payment, a sum sufficient to meet any undischarged obligations of the Contractor for labor and/or materials incorporated in the work.

(ii) Payment and retainage on the pay estimate shall be as follows:

The Contractor agrees that the partial payment request shall consist of the cost of work certified as completed to the date as estimated in the contract price subject to the decisions of:

1. Ten percent (10%) of the sum to be retained until payment of the first fifty percent (50%) of the contract work is in place, and

2. The amount of previous payments to the Contractor, and ten percent (10%) of the dollar value of work, which is certified as in place.



3. More than fifty percent (50%) in place, if the City in its sole discretion determines that the Contractor is not making satisfactory progress, or that the Contractor is not performing the contract in a satisfactory manner. The Contractor agrees that the City shall have the option to submit any dispute concerning whether the Contractor is making satisfactory progress or is not performing the contract in a satisfactory manner and is thus entitled to continue withholding ten percent (10%) as retainment to a third party. The Contractor agrees that for purposes of this section the word "unsatisfactory" shall mean that the Contractor is failing to comply with any section of this contract or with any part of the project schedule submitted by the Contractor which schedule has been approved by the City.

The City shall deposit any retained funds in an interest bearing account in the City of Flint's name, and the Contractor agrees to pay all expenses regarding the deposit, investment, and administration with the interest bearing account.

The Contractor agrees that the City shall have sole control over the interest bearing account. The Contractor agrees that the interest rate paid on a regular passbook savings account at any federally chartered financial institution shall be the proper and reasonable interest, which shall be paid on any retainment of the Contractor.

4. At any time after fifty percent (50%) of the written contract is complete, and at the request of the Contractor, the City may reduce the retainage to five percent (5%).

(iii) Withholding payments: The City, before making any payment, will require the Contractor to furnish releases or receipts from any or all persons performing work and supplying material or services to the Contractor, or any subcontractor, if this is deemed necessary to protect its interest. The City, however, may make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties on any bond or bonds furnished under this contract.

(iv) Payments subject to submission of certificates: Each payment to the Contractor by the City shall be made subject to the following:

1. Submission by the Contractor of all written certifications required of it and its subcontractors under general conditions, and

2. No payment made under the contract shall act as a waiver of the right of the owner to require the fulfillment of all of the terms of the contract. The City reserves the right to issue joint warrants naming the prime and subcontractors when such action is in the interest of the owner.

(v) Final payments: After the final inspection by the City of all work under the contract, the Contractor shall prepare its requisition for final payment and submit it to the City's Chief Financial Officer or his or her designee. The final payment shall consist of the total cost of all work, as adjusted in accordance with approved change orders, less



all previous payments to the Contractor and subject to withholding of any amount due the City under "liquidated damages," if applicable less the costs of depositing, investing and administering the retained amount or any other costs associated with the interest bearing account.

(vi) The Contractor shall not withhold any retainage from payments to suppliers unless there is an executed written agreement to that effect between the Contractor and the supplier. Final retainage payment to Contractor shall not be made until all related expenses have been reviewed by the State of Michigan.

(vii) Progress payment shall be made in the following manner: A single check each month to Contractor.

5. Contract Documents: The invitation for bids, instructions to bidders, proposal, affidavit, addenda (if any), statement of bidder's qualifications (when required), general conditions, special conditions, performance bond, labor and material payment bond, insurance certificates, technical specifications, and drawings, together with this agreement, form the contract, and they are as fully a part of the contract as if attached hereto or repeated herein.

6. Davis Bacon: Contractor must fully adhere to the Davis-Bacon Act, 40 U S C 276a, *et seq.*

7. Disclaimer of Contractual Relationship With Subcontractors: Nothing contained in the Contract Documents shall create any contractual relationship between the City and any Subcontractor or Sub-subcontractor.

8. Effective Date: This contract shall be effective upon the date that it is executed by all parties and presented to the City of Flint Clerk. The end date of this contract shall be January 1, 2020, unless mutually agreed by both the City and the Contractor.

9. Certification, Licensing, Debarment, Suspension and Other Responsibilities: Contractor warrants and certifies that Contractor and/or any of its principals are properly certified and licensed to perform the duties required by this contract in accord with laws, rules, and regulations, and is not presently debarred, suspended, proposed for debarment or declared ineligible for the award of any Federal contracts by any Federal agency. Contractor may not continue to or be compensated for any work performed during any time period where the debarment, suspension or ineligibility described above exists or may arise in the course of Contractor contractual relationship with the City. Failure to comply with this section constitutes a material breach of this Contract. Should it be determined that contractor performed work under this contract while in non-compliance with this provision, Contractor agrees to reimburse the City for any costs that the City must repay to any and all entities.

10. Force Majeure: Neither party shall be responsible for damages or delays caused by Force Majeure or other events beyond the control of the other party and which could not reasonably have been anticipated or prevented. For purposes of this Agreement, Force



Majeure includes, but is not limited to, adverse weather conditions, floods, epidemics, war, riot, strikes, lockouts, and other industrial disturbances; unknown site conditions, accidents, sabotage, fire, any circumstances that are detrimental to public health, safety or welfare and acts of God. Should Force Majeure occur, the parties shall mutually agree on the terms and conditions upon which the services may continue.

11. Furnishing of Bonds - Payment/Performance/Materials/Fidelity: Contractor shall furnish to the City at his or her own cost, performance and payment bonds which shall become binding upon the awarding of the contract to Contractor.

12. Good Standing: Contractor must remain current and not be in default of any obligations due the City of Flint, including the payment of taxes, fines, penalties, licenses, or other monies due the City of Flint. Violations of this clause shall constitute a substantial and material breach of this contract. Such breach shall constitute good cause for the termination of this contract should the City of Flint decide to terminate on such basis.

13. Indemnification: To the fullest extent permitted by law, Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Flint, its elected and appointed officials, employees and volunteers and other working on behalf of the City of Flint, including its Project Manager, against any and all claims, demands, suits, or losses, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City of Flint, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Flint, including its Project Manager, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which may arise as a result of Contractor's acts, omissions, faults, and negligence or that of any of his employees, agents, and representatives, including its Project Manager, in connection with the performance of this contract. Should the Contractor fail to indemnify the City in the above-mentioned circumstances, the City may exercise its option to deduct the cost that it incurs from the contract price forthwith.

14. Independent Contractor: No provision of this contract shall be construed as creating an employer-employee relationship. It is hereby expressly understood and agreed that Contractor is an "independent contractor" as that phrase has been defined and interpreted by the courts of the State of Michigan and, as such, Contractor is not entitled to any benefits not otherwise specified herein.

15. Insurance/Worker's Compensation: Contractor shall not commence work under this contract until he has procured and provided evidence of the insurance required under this section. All coverage shall be obtained from insurance companies licensed and authorized to do business in the State of Michigan unless otherwise approved by the City's Chief Financial Officer or his or her designee. All policies shall be reviewed by the City's Chief Financial Officer and his or her designee for completeness and limits of coverage. All coverage shall be with insurance carriers acceptable to the City of Flint. Contractor shall maintain the following insurance coverage for the duration of the contract.



(a) Commercial General Liability coverage of not less than one million dollars (\$1,000,000) combined single limit with the City of Flint, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." This coverage shall be written on an ISO occurrence basis form and shall include: Bodily Injury, Personal Injury, Property Damage, Contractual Liability, Products and Completed Operations, Independent Contractors; Broad Form Commercial General Liability Endorsement, (XCU) Exclusions deleted and a per contract aggregate coverage. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether said other available coverage be primary, contributing, or excess.

(b) Workers Compensation Insurance in accordance with Michigan statutory requirements, including Employers Liability coverage.

(c) Commercial Automobile Insurance in the amount of not less than \$1,000,000 combined single limit per accident with the City of Flint, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." This coverage shall be written on ISO business auto forms covering Automobile Liability, code "any auto."

(d) Professional Liability - Errors and Omissions. All projects involving the use of Architects, civil engineers, landscape design specialists, and other professional services must provide the City of Flint with evidence of Professional Liability coverage in an amount not less than one million dollars (\$1,000,000). Evidence of this coverage must be provided for a minimum of three years after project completion. Any deductibles or self-insured retention must be declared to and approved by the City. In addition, the total dollar value of all claims paid out on the policy shall be declared. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retention with respect to the City, its officials, employees, agents and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim, administration, and defense expenses.

Contractor shall furnish the City with two certificates of insurance for all coverage requested with original endorsements for those policies requiring the Additional Insureds. All certificates of insurance must provide the City of Flint with not less than 30 days advance written notice in the event of cancellation, non-payment of premium, non-renewal, or any material change in policy coverage. In addition, the wording "Endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" must be removed from the standard ACORD cancellation statement. These certificates must identify the City of Flint, Risk Management Division, as the "Certificate Holder." Contractor must provide, upon request, certified copies of all insurance policies. If any of the above policies are due to expire during the term of this contract, Contractor shall deliver renewal certificates and copies of the new policies to the City of Flint at least ten days prior to the expiration date.



Contractor shall ensure that all subcontractors utilized obtain and maintain all insurance coverage required by this provision.

16. Laws and Ordinances: Contractor shall obey and abide by all of the laws, rules and regulations of the Federal Government, State of Michigan, Genesee County and the City of Flint, applicable to the performance of this agreement, including, but not limited to, labor laws, and laws regulating or applying to public improvements.

17. Liquidated Damages: Liquidated damages will be assessed for failure to meet the above schedule. Liquidated damages of \$1,550 will be assessed per work day per zone (Monday-Friday) after the contract completion work days has expired. All policies shall be reviewed by the City's Chief Financial Officer and his or her designee for completeness and limits of coverage. In the event that the City grants an extension of time to contractor to complete its work beyond the contract SWO date, Contractor agrees the City does not waive its right to obtain liquidated damages.

18. Modifications: Any modifications to this contract must be in writing and signed by the representative of the parties authorized to make such contractual modifications under State law and local ordinances.

19. No Third-Party Beneficiary: No contractor, subcontractor, mechanic, materialman, laborer, vendor, or other person dealing with the principal Contractor shall be, nor shall any of them be deemed to be, third-party beneficiaries of this contract, but each such person shall be deemed to have agreed (a) that they shall look to the principal Contractor as their sole source of recovery if not paid, and (b) except as otherwise agreed to by the principal Contractor and any such person in writing, they may not enter any claim or bring any such action against the City under any circumstances. Except as provided by law, or as otherwise agreed to in writing between the City and such person, each such person shall be deemed to have waived in writing all rights to seek redress from the City under any circumstances whatsoever.

20. Non-Discrimination: The Contractor shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq., the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq., and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position or status with respect to public assistance. A breach of this covenant is a material breach of this Agreement.

21. Anti-Lobbying: The Contractor shall not use any of the grant funds awarded in this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "Lobbying" means communicating directly with an official of the



executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action.” The Contractor shall not use any of the grant funds awarded in this Agreement for the purpose of litigation against the State or City. Further, the Contractor agrees to require that language of this assurance be included in the award documents of all subawards.

22. Notices: Notices to the City of Flint shall be deemed sufficient if in writing and mailed, postage prepaid, addressed to Robert Bincsik and Inez Brown, City Clerk, City of Flint, 1101 S. Saginaw Street, Flint, Michigan 48502, or to such other address as may be designated in writing by the City from time to time. Notices to Contractor shall be deemed sufficient if in writing and mailed, postage prepaid, addressed to Lang Constructors, 9145 Corunna Rd., Flint, MI 48532, or to such other address as may be designated in writing by Contractor from time to time.

23. Records Property of City: All documents, information, reports and the like prepared or generated by Contractor as a result of this contract shall become the sole property of the City of Flint and shall be provided to the City upon request.

24. Scope of Services: Contractor shall provide all of the materials, labor, equipment, supplies, machinery, tools, superintendence, insurance and other accessories and services necessary to complete the project in accordance with the proposals submitted on March 7, 2019, Proposal #19-558. Contractor shall be awarded residential water service line replacements in five (5) zones. Contractor may be directed by a Representative of the City to cut and cap the service line of a property that may be deemed abandoned. Contractor will be charged accordingly to perform said service based on price submitted under “Exhibit D” of their proposal. Contractor shall be responsible for any and all damages resulting from the installation of the service line replacement. Contractor shall maintain address for six months for settling on soft surfaces and 90 days for temporary restoration and road way repair from post inspection. Contractor shall perform the work in accordance with the Standard General Conditions and any Special Conditions provided for in this contract and warrants to the City that all materials and equipment furnished under this contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the contract documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. In addition to any other remedies the City may have, if, within one year of the date of substantial completion of work, or within one year after acceptance by the City, or within such longer period of time as may be prescribed by law, any of the work is found to be defective or not in accord with the contract documents, Contractor shall correct promptly after receipt of a written notice from the City to do so, unless the City has previously given Contractor a written acceptance of such condition.

Contractor will complete all forms that have been provided by the City and provide information as requested by the City that may be germane to this project.

Contractor shall be responsible for the removal and proper disposal of all sidewalk, pavement or other surfacing, curbs, driveways and excavated materials necessary for

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installation of the complete water service line. Contractor is to take old removed service line material to the Water Service Center, 3301 E. Court St., Flint, MI 48506. Contractor will take approximately two (2) feet of removed service line, place duct tape on the material and place the address of which the pipe was removed on duct tape.

25. Severability: In the event that any provision contained herein shall be determined by a court or administrative tribunal to be contrary to a provision of state or federal law or to be unenforceable for any reason, then, to the extent necessary and possible to render the remainder of this Agreement enforceable, such provision may be modified or severed by such court or administrative tribunal so as to, as nearly as possible, carry out the intention of the parties hereto, considering the purpose of the entire Agreement in relation to such provision. The invalidation of one or more terms of this contract shall not affect the validity of the remaining terms.

26. Standards of Performance: Contractor agrees to exercise independent judgment and to perform its duties under this contract in accordance with sound professional practices. The City is relying upon the professional reputation, experience, certification, and ability of Contractor. Contractor agrees that all of the obligations required by him under this Contract shall be performed by him or by others employed by him and working under his direction and control. The continued effectiveness of this contract during its term or any renewal term shall be contingent upon Contractor maintaining his certification in accordance with the requirements of State law.

27. Subcontracting: No subcontract work, if permitted by the City, shall be started prior to the written approval of the subcontractor by the City. The City reserves the right to accept or reject any subcontractor.

28. Termination: In the event of a failure by either party to perform any material provision of this Contract, the other side shall give written notice of the breach along with 30 days to cure the breach. If after the 30 day period the breach has not been cured, the non-breaching party may terminate the contract. Either party may also terminate the contract if required by law to do so.

29. Time of Performance: Contractor's services shall commence immediately upon receipt of the notice to proceed and shall be carried out forthwith and without unreasonable delay.

30. Waiver: Failure of the City to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any term, covenant, or condition. Any waiver or relinquishment of any right or power hereunder at any one or more times shall not be deemed a waiver or relinquishment of that right or power at any other time.

31. Whole Agreement: This written agreement and the documents cited herein embody the entire agreement between the parties. Any additions, deletions or modifications hereto must be in writing and signed by both parties.



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IN WITNESS WHEREOF, the parties have executed this contract this 8th day of May, 2019.

CONTRACTOR:

Jeffrey A. Lang
Lang Constructors, Inc.

Its PRESIDENT

WITNESS(ES):

[Signature]
Christina J. [Signature]

CITY OF FLINT, a Michigan Municipal Corp.:

Karen W. Weaver
Dr. Karen W. Weaver
Mayor

APPROVED AS TO FORM:

[Signature]
Angela Wheeler
Chief Legal Officer



CITY OF FLINT, MICHIGAN
DEPARTMENT OF PURCHASES & SUPPLIES



PROJECT MANUAL FOR

**2019 PHASE VI SERVICE LINE REPLACEMENT
(SLR)**

City of Flint Proposal No. 19-558

March 7, 2019

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CITY OF FLINT

Department of Purchases & Supplies

Dr. Karen Weaver
Mayor

INVITATION TO BID

OWNER:

THE CITY OF FLINT
DEPARTMENT OF PURCHASES AND SUPPLIES
1101 S. SAGINAW STREET, ROOM 203
FLINT, MI, 48502

Project Name: Phase VI Service Line Replacement (SLR)
Proposal No.: 19-558

SCOPE OF WORK:

The City of Flint, Department of Purchases & Supplies, is soliciting sealed bids for providing:

2019 PHASE VI SERVICE LINE REPLACEMENT (SLR)

per the attached requirements.

If your firm is interested in providing the requested services, please submit 1 original, 1 copy, and 1 unbound copy of your bid in a sealed envelope to the City of Flint, Department of Purchases and Supplies, 1101 S. Saginaw St., Room 203, Flint, MI, 48502, by **Thursday, March 7, 2019 @ 3:00 PM EST**. The outside of the envelope should clearly identify the project name and number, and the name and address of the Bidder. Please note: all bids received after 12:00 PM (EST) will not be considered. Faxed bids to the Purchasing Department will not be accepted. Bidding Documents shall meet requirements set forth in Specification Section 00 21 13 Instructions to Bidders.

A mandatory pre-bid meeting will be held on **Monday, February 25, 2019 @ 11:00 AM EST** at City Hall, 1101 S. Saginaw St., Flint, MI 48502 in City Council Chambers. This will be the only venue that potential contractors will be able to have a face-to-face conversation with both the Purchasing Department and the Service Line Replacement (SLR) Program Management Team. This venue will also allow contractors to ask any questions concerning this project.

A bid guaranty or a cashier's check in the amount of 5% of the total proposal cost but not less than \$100,000.00 whichever is greater must be submitted with the RFP. Please note: cashier's check must be payable to Treasurer, City of Flint.

All additional bid documents, requirements, addendums, specifications and plans/drawings (if utilized) are available on the Purchasing page of the City of Flint's web site at www.cityofflint.com/purchasing under "open bids" and the specific bid or proposal number assigned to this notice.

Bid Submission

- Date Released and Bid Posted to City's Website: Thursday, February 14, 2019
- Bid Advertisement: Sunday, February 17, 2019
- Pre-bid Meeting: Monday, February 25, 2019
- Final Date for Questions: Thursday, February 28, 2019
- Final Addendum: Friday, March 1, 2019
- Bid Due Date: Thursday, March 7, 2019
- Bid Review: Friday, March 8, 2019
- Introduce to Finance Committee: Wednesday, March 20, 2019
- Anticipated City Council Approval: Monday, March 25, 2019
- Contract Preparation: Friday, March 29, 2019
- Anticipated Contract Execution: Monday, April 1, 2019

The dates provided above are estimated dates only and may be subject to change.

Submit to City: 1 printed, signed, original proposal and addenda
 1 printed, signed, copy of the proposal and addenda
 1 printed, signed, copy of the proposal and addenda (unbound)

Send to: The City of Flint
 Department of Purchases and Supplies
 1101 S. Saginaw Street, Room 203
 Flint, MI 48502

Effective immediately upon release of this request for proposal (RFP), and until notice of contract award, all official communications from proposers regarding the requirements of this RFP shall be directed to:

Bryan Bond
810 766-7340
bdbond@cityofflint.com

The City, or designee, shall distribute all official changes, modifications, responses to questions or notices relating to the requirements of this RFP. Addenda to this RFP may be developed and shared with all Vendors. Any other information of any kind from any other source shall not be considered official, and proposers relying on other information do so at their own risk.

Sincerely

Purchasing Department

PHASE V SERVICE LINE REPLACEMENT (SLR)

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INSTRUCTION TO BIDDERS

ARTICLE 1 – DEFINED TERMS

- 1.1 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 where the bidding procedures are to be administered.
 - B. *Bidder* - The individual or entity who submits a Bid directly to Owner.
 - C. *Successful Bidder* - A responsible Bidder submitting a responsive Bid to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.
 - D. *Owner* – City of Flint, MI
 - E. *Engineer* -

ARTICLE 2 – COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Invitation to Bid may be obtained through the Owner's website www.cityofflint.com/purchasing under "open bids".
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.
- 2.4 Deposit on Drawings and Documents: No deposit is required.

ARTICLE 3 – QUALIFICATIONS OF BIDDERS

- 3.1 To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.
- A. The address and description of the Bidder's place of business.
 - B. The number of years engaged in the contracting business under the present firm name, and the name of the state where incorporated.

- C. A list of the property and equipment available to the Bidder to evaluate if the Bidder can complete the Work in accordance with the Bidding Documents.
 - D. A financial statement of the Bidder showing that the Bidder has the financial resources to meet all obligations incidental to the Work.
 - E. The Bidder's performance record giving the description, location, and telephone numbers of similar projects constructed in a satisfactory manner by the Bidder. The City is seeking a Contractor that has at least five (5) years' worth of experience in replacing service lines using both traditional excavation and horizontal directional drilling (HDD) methods in order to perform the replacement of service lines to various residential homes / buildings located within the City of Flint. Experience shall include the installation of at least 1,000 residential service lines using traditional excavation methods and 500 installations using HDD methods. Bidder shall provide at least five reference projects demonstrating the level of experience required to be awarded this Contract. Refer to Bid Form, Exhibit F.
 - F. A list of projects presently under contract, the approximate contract amount, and percent of completion of each.
 - G. A list of contracts which resulted in law suits.
 - H. A list of contracts defaulted.
 - I. A statement of the Bidder indicating whether or not the Bidder has ever filed bankruptcy while performing Work of like nature or magnitude.
 - J. A list of officers of the firm who, while in the employ of the firm or the employ of previous firms, were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy.
 - K. The technical experience of personnel guaranteed to be employed in the responsible charge of the Work stating whether the personnel have or have not performed satisfactorily on other contracts of like nature and magnitude or comparable difficulty at similar rate of progress.
 - L. Such additional information as will assist Owner in determining whether the Bidder is adequately prepared to fulfill the contract.
- 3.2 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.
- 3.3 Ability and Experience of Bidder:
- A. No award will be made to any bidder who cannot satisfy the Owner that he has sufficient ability and experience in this class of work and sufficient capital and plant (equipment and labor) to enable him to prosecute and complete the Work successfully

within the time named. The Owner's decision or judgment on these matters shall be final, conclusive, and binding.

- B. The Owner may make such investigations as it deems necessary, and the Bidder shall furnish to the Owner, under oath if so required, all such information and data for this purpose as the Owner may request.

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

4.1 *Subsurface and Physical Conditions:*

- A. No geotechnical or subsurface investigation reports are available.

4.2 *Underground Facilities*

- A. No information regarding existing underground facilities is available.

4.3 *Hazardous Environmental Condition*

- A. No information regarding hazardous environmental conditions is available.

- 4.4 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 4.06 of the General Conditions.

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

4.06

- A. Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of contract documents (other than portions thereof related to price) for such other work.

- B. Paragraph 6.13.C of the General Conditions indicates that if an Owner safety program exists, it will be noted in the Supplementary Conditions.

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

- A. examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents;
- B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. consider the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs;
- E. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- F. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- G. correlate 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;
- H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
- I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.8 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and

procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 – PRE-BID CONFERENCE

- 5.01 Bidders are required to attend and participate in a pre-Bid conference as scheduled in the Invitation to Bid. Representatives of Owner and Engineer will be present to discuss the Project. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 – SITE AND OTHER AREAS

- 6.1 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents.
- 6.2 All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.
- 6.3 The Contractor shall not work on property requiring obtaining of an easement until the Owner has obtained the necessary easement.
- 6.4 The Contractor shall have no claim for additional compensation or damage on account of any delay in obtaining the necessary easements.

ARTICLE 7 – INTERPRETATIONS AND ADDENDA

- 7.1 All questions about the meaning or intent of the Bidding Documents are to be submitted to City of Flint Department of Purchases and Supplies in writing. Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda posted to the Owner's website www.cityofflint.com/purchasing under this proposal number. Questions received after 5:00 PM EST on Thursday, February 28, 2019 will not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.2 The Owner will set forth as Addenda, which shall become a part of the Contract Documents, such questions received as above provided as in his sole judgment are appropriate or necessary and his decision regarding each. Owner shall post addenda to the Owner's website www.cityofflint.com/purchasing under this proposal number.

7.3 The Contractor agrees to use the products and methods designated or described in the Specifications as amended by the Addenda.

7.4 *Items and Indeterminate Items:*

A. The work to be done under this contract has been divided into parts or items to enable each bidder to bid on different portions of the work in accordance with his estimate of their cost and so that the actual quantity of work executed under each item may be paid for at the price bid for that particular item, even though such quantity is greater or less than the estimated quantity stated in the Bid Documents.

ARTICLE 8 – BID SECURITY

8.1 A Bid must be accompanied by 5% Bid security made payable to Owner in amount of not less than \$100,000 whichever is greater and in the form of a certified cashier's check or a Bid Bond issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.

8.2 The Bid security of the Successful Bidder(s) will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider the Bidder to be in default and annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.

Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving an award may be retained by Owner until the earlier of 7 days after the Effective Date of the Agreement or 60 days after the Bid opening, where upon the Bid security furnished by such Bidders will be returned.

8.3 Bid security of the other Bidders whom Owner believes do not have a reasonable chance of receiving the award and who furnished certified checks will have checks returned within 60 days after the Bid opening. Bond forms will be returned upon request.

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

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

ARTICLE 9 – CONTRACT TIMES

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

ARTICLE 10 – LIQUIDATED DAMAGES

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

ARTICLE 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or “or-equal” items. Whenever it is specified or described in the Bidding 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 will not be considered by Engineer until after the Effective Date of the Agreement.

ARTICLE 12 – BASIS OF DESIGN

12.1 Basis of Design

- A. Unless otherwise indicated, design of this Project is based upon the material or Supplier’s equipment named first in the list of manufacturers in the Specifications. Engineer has performed an evaluation of other listed manufacturers for compliance with the requirements of the Contract Documents. When other manufacturers are listed, Contractor may be required to make modifications or adjustments, at Contractor’s expense, to coordinate the installation of the furnished equipment with associated elements of Work, such as piping and electrical connections, or support and mounting provisions.

ARTICLE 13 – SUBCONTRACTORS, SUPPLIERS AND OTHERS

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

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

ARTICLE 14 – PREPARATION OF BID

- 14.1 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from the Engineer.
- A. All blanks on the Bid Form shall be completed in ink and Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form.
 - B. A Bid price shall be indicated for each bid item listed therein. In the case of optional alternatives, the words “No Bid,” “No Change,” or “Not Applicable” may be entered.
 - C. The Bid shall contain an acknowledgement of the receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
 - D. Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
 - E. All names shall be printed in ink below the signatures.
 - F. It is the responsibility of the Bidder to submit a neat, accurate, and complete Bid using the forms provided in Bid documents.
- 14.2 The Bidder, when signing the Bid(s) shall meet the following requirements:
- A. A Bid by an individual shall show Bidder’s name and Bidder’s official address.
 - B. A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature) accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
 - C. A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.

- D. A Bid by a joint venture shall be executed by each joint venture in the manner indicated on the Bid form. The official address of joint venture shall be shown.
- E. A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

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

ARTICLE 15 – BASIS OF BID; COMPARISON OF BIDS

15.1 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.

15.2 *Supplementary Unit Prices*

- A. Bidder shall submit a unit price for each item of Work listed in the Schedule of Supplementary Prices included in the Bid.
- B. Owner shall have the right to reject any supplemental unit prices for additions to or deductions from the Work if the prices are considered excessive or unreasonable, or to accept any supplementary unit prices which may be considered fair and reasonable.

15.3 *Completion Time Comparisons*

- A. Bid prices will be compared after adjusting for differences in the time designated by Bidders for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Contract Documents for liquidated damages for failing to achieve Substantial Completion for each day before or after the desired date appearing in Article 9 above.

ARTICLE 16 – SUBMITTAL OF BID

16.1 The Bid Form is to be completed and submitted with the Bid security and the following documents:

- A. See Article 7 of Section 00 41 13 entitled "Bid Form" for a list of documents required to be submitted with the Bid.
 - 1. A Bid shall be submitted no later than the date and the time prescribed and at the place indicated in the Invitation to Bid and shall be enclosed in a plainly marked package with the Project title and number, the name and address of the Bidder, and

shall be accompanied by the Bid security and other required documents. If the Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." No oral, facsimile, or telephonic bids will be accepted. A mailed Bid shall be addressed to the address indicated on the Bid Form. All Bids received will be time stamped by the Department of Purchases and Supplies.

- B. OWNER may consider informal any Bid not prepared and submitted in accordance with the provisions hereof.
- C. Bidders are cautioned that it is the responsibility of each individual bidder to assure that his bid is in the possession of the responsible official or his designated alternate prior to the stated time and at the place of the Bid Opening. Owner is not responsible for bids delayed by mail and/or delivery services, of any nature.

ARTICLE 17 – MODIFICATION AND WITHDRAWAL OF BID

17.01 Bids may be withdrawn prior to opening of the Bids upon written request of the Bidder, or the personal appearance of the Bidder or Bidder's designated representative. Bids may not be modified and resubmitted prior to the Bid opening time if a Bidder claims a mistake, omission, or error in the preparation of the Bid. Withdrawn Bids may not be resubmitted unless the Work is re-advertised and rebid upon such advertisement.

ARTICLE 18 – OPENING OF BIDS

18.01 Bids will be opened at the time and place designated by the Owner and, unless obviously non-responsive, read aloud publicly.

ARTICLE 19 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

19.01 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 20 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 20.1 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 20.2 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

- 20.3 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 20.4 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 20.5 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.
- 20.6 In the event that there is a discrepancy in the Bid between the lump sum or unit prices written in words and figures, the prices written in words shall govern.
- 20.7 The Owner reserves the right to decrease the scope of the work to be done under this contract and to omit any work in order to bring the cost within available funds. To this end, the Owner reserves the right to reduce the quantity of any items or omit all of any items as set forth in the Bid, either prior to executing the contract or at any time during the progress of the work. The Owner further reserves the right, at any time during the progress of the work, to restore all or part of any items previously omitted or reduced. Exercise by the Owner of the above rights shall not constitute any ground or basis of claim for damages or for anticipated profits on the work omitted.
- 20.8 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project. Contracts shall be awarded to the responsible firm whose Bid is most advantageous to the program, with price and other factors considered. Through formal Bid evaluations, the Owner will evaluate the bidders complete Bid, including additional factors and considerations but not limited to approach and methodology, performance history and references, financial ability, and adherence to regulatory compliance requirements.
- 20.9 Responsive and Responsible Bid: Responsiveness is determined by the examination of the Bid to ensure that it conforms to the stated requirements of the Bidding Documents (i.e., the Bidder provided a Bid Bond in the proper amount; the Bidder included required documentation in its Bid; etc.). Responsibility is evaluated by measuring the apparent ability of the contractor to successfully meet the requirements of the Contract Documents considering, but not limited to:
- A. Adequate financial resources to perform the Contract in entirety
 - B. Ability to meet the requirements of the Contract Documents
 - C. Satisfactory record of performance on other contracts of similar size and scope

D. Necessary staffing, organization, experience, operational controls, and technical skills

E. Necessary production, construction, and technical equipment facilities

20.10 The Owner reserves the right to omit certain items in their entirety and other items in part as set forth in the Bid.

ARTICLE 21 – CONTRACT SECURITY AND INSURANCE

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

ARTICLE 22 – SIGNING OF AGREEMENT

22.1 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of signed counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner.

22.2 The Notice of Award will be issued within 60 days after the Bids are received.

ARTICLE 23 – WAGE RATES

23.1 Each Contractor or Subcontractor performing Work on this Project shall comply in all respects with all laws governing the employment of labor, Social Security, and Unemployment Insurance of both the state and federal government. There shall be paid each employee engaged in Work under this Contract at the Site of the Project, the minimum wage for the classifications of labor employed. Bidders shall make their own investigation locally and satisfy themselves as to availability of labor.

23.2 Not less than the prevailing wage rates on public Work as established by the U.S. Department of Labor and the State in which Work is to be done shall be paid. Wages and rates are subject to the provisions of the Davis-Bacon Act.

ARTICLE 24 – SALES AND USE TAXES

24.1 Provisions for the Bidder's responsibilities for sales and other taxes appear in Paragraph 6.10 of the General Conditions and as supplemented in the Supplementary Conditions. Bidder shall investigate the statutory requirements for payment of sales taxes and if required shall include the tax in the Bid.

24.2 If investigation indicates tax exempt status, Contractor(s) shall forward this information to its Suppliers in order that the sale of such materials and equipment be properly recorded as a tax-exempt sale.

24.3 Contractor and any subcontractor engaged in this contract shall withhold from each payment to his employees the City income tax on all of their compensation subject to tax, after giving effect to exemptions, as follows:

- A. Residents of the City: At a rate equal to 1 % of all compensation paid to the employee who is a resident of the City of Flint.
- B. Non-residents: At a rate equal to 1/2% of the compensation paid to the employee for work done or services performed in the City of Flint.

These taxes shall be held in trust and paid over to the City of Flint in accordance with City ordinances and State law. Any failure to do so shall constitute a substantial and material breach of this contract.

ARTICLE 25 – POST-BID SUBMITTALS

25.1 *Disadvantaged Business Enterprises Participation*

- A. Non-Applicable.

ARTICLE 26 – RETAINAGE

26.01 Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 27 – CONTRACTS TO BE ASSIGNED

27.01 Non-Applicable

ARTICLE 28 – PARTNERING

28.01 Non-Applicable.

ARTICLE 29 – OTHER CONTRACTS

- 29.1 The attention of bidders is directed to the fact that the work to be done under this contract is only part of a program of improvements, that contracts have been let for additional facilities, and that the successful operation of the improvements is dependent upon the completion of the work under this contract and of the work to be done by others.
- 29.2 It is essential that all parties interested in the project cooperate to the end that the entire project will be brought to a successful conclusion as rapidly as possible, but the Owner cannot guarantee that no interference or delay will be caused thereby. Interference and delay resulting from such cooperation shall not be the basis of claims against the Owner.

ARTICLE 30 – FEDERALLY ASSISTED CONTRACT

30.01 This Contract is Federally assisted. The Contractor must comply with the Davis-Bacon Act, the Anti-Kickback Act, the Contract Work Hours Standards Act, Title VI of the Civil Rights Act of 1964, and Executive Orders 11246 and 11375.

ARTICLE 31 – FEDERAL WAGE RATES

31.1 Davis – Bacon Act

- A. For all prime construction contracts in excess of \$2,000, the contractor must comply with all state and federal requirements as governed by the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146--3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

ARTICLE 32 – OTHER PROVISIONS

32.1 Copeland Anti-Kickback Clause

- A. For all prime construction contracts in excess of \$2,000, the contractor must comply with the Copeland "AntiKickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

32.2 Suspension and Debarment

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by (insert name of sub grantee). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as grantee and name of sub grantee), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of

any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- B. A prospective contractor that is listed on the government-wide Excluded Parties List System in the System for Award Management (www.SAM.gov) as suspended or debarred, **CANNOT** be awarded a contract funded with Federal assistance.

32.3 *Anti-Lobbying*

- A. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification must comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 as amended . Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

32.4 *Clean Air Act and Federal Water Pollution Control Act*

- A. For all contracts exceeding \$150,000, the contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to the Regional Office of the Environmental Protection Agency (EPA).

32.5 *Non-Discrimination*

- A. The contractor shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq., the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq., and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The contractor agrees to include in every subcontract entered into for the performance of this Agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Agreement.

32.6 *American Iron and Steel (AIS) Requirements*

- A. The Contractor acknowledges to and for the benefit of the City of Flint ("Purchaser") and the Michigan Department of Environmental Quality (the "State") that it understands

the goods and services under this Agreement are being primarily funded with monies made available through a Drinking Water Revolving Fund loan which require adherence to certain federal procurement guidelines. These guidelines include (but are not limited to) provisions commonly known as "American Iron and Steel (AIS);" that requires all iron and steel products used in the project be produced in the United States ("AIS Requirements") including iron and steel provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the AIS Requirements, (b) all iron and steel used in the project will be and/or have been produced in the United States in a manner that complies with the AIS Requirements, unless a waiver of the requirements is approved or the State made the determination in writing that the AIS Requirements do not apply to the project, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the AIS requirements, as may be requested by the Purchaser. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

END OF SECTION

Lang

EXHIBIT A

CHECKLIST OF ITEMS REQUIRED FOR SUBMISSION OF BID

BIDDERS MUST COMPLETE THIS SHEET AND SUBMIT WITH THEIR BID, ALONG WITH THE FOLLOWING ITEMS

- ✓ Checklist form – Exhibit A
- ✓ Non-Collusion Affidavit – Exhibit B
- ✓ Bid Certification - Exhibit C
- ✓ Capacity information
 - Bidder has to provide information on their capacity, including horizontal directional drilling, to perform the work outlined in the bid documents.
 - Provide a historical summary of work that demonstrates the required experience, both in time and quantity of work completed.
- ✓ Experience and qualifications
 - Identify all subcontractors (if applicable) and provide same information as proposed bidder. – Exhibit D
 - Identify all equipment and suppliers (if applicable) intended to be utilized for this contract. – Exhibit E
- ✓ References
 - Supply at least five (5) references from municipalities (city, county, township, etc.) or communities (or developments) demonstrating experience working on water distribution projects that are similar in size and scope to this project. Please include customer's name, dates of contracts, summary of services provided, reference contact name, phone number, and address. – Exhibit F
- ✓ Other
 - Ownership Statement – Exhibit G
 - Identify the name of the landfill or approved disposal site in which excavation spoils, waste, including lead or other contaminated material, and compost material will be disposed for the period of this contract. The City may request financial information of said landfill or disposal site at a later date.
 - Describe how your company meets or exceeds the minimum experience qualification of the services requested.
 - Any information that the vendor would like to submit with their proposal.
- ✓ Bid Bond – Section 00 43 13

PLEASE NOTE: FAILURE TO SUBMIT THE ABOVE ITEMS WILL RESULT IN A REJECTION OF YOUR BID.



SECTION 00 41 13

BID FORM

ARTICLE 1 – BID RECIPIENT

1.1 This Bid is submitted to:

The City of Flint
Department of Purchases and Supplies
1101 S. Saginaw Street, Room 203
Flint, MI 48502

(Hereinafter called Owner)

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

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. Bidder shall sign and deliver the required number of counterparts of the Agreement with the bonds and other documents required by the Bidding Documents within twenty (20) days after the issuance date of the Notice of Award.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.1 In submitting this Bid, Bidder represents that:

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

<u>Addendum No.</u>	<u>Addendum Date</u>
1	03/01/2019
_____	_____
_____	_____
_____	_____



1

2

A SIGNED COPY OF THIS ADDENDUM MUST ACCOMPANY ALL INTIAL DOCUMENT(S) PORTION(S) REQUIRED FOR SUBMISSION AS PART OF THE ORIGINAL PROPOSAL.

Proposing Vendor : Lang Constructors, Inc.

Name of Vendor's Agent : Jeffrey T. Lang
Printed

Signed : 

Date: 03/06/2019



- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in SC-4.02 as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in SC-4.06 as containing reliable "technical data."
- E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. 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.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- J. Bidder agrees to comply with the Disadvantaged Business Enterprise participation as specified in the Bidding Documents.
- K. In connection with the performance of Work under this Contract, Bidder agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition or developmental disability, or national origin.



- L. The submission of this Bid constitutes and incontrovertible representation by the Bidder that the Bidder has complied with every requirement of the Bidding Documents, and that without exception, the Bid prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.1 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.1 Bidder will complete the Work in accordance with the Contract Documents for the unit prices identified in the table below.
- A. Unit Prices shall be computed in accordance with Paragraph 11.03.B of the General Conditions.
- B. The intent of this Bid is to establish unit prices to complete service line replacements (SLR) and associated work.



- C. SLR quantities may be increased or decreased as schedule and available funding dictate. Proposals will be submitted on an estimated 5,000 service line verifications and possible replacements with a potential to increase on an "as-needed" basis up to 8,000. The remaining service lines to be located throughout the City may be widely dispersed geographically but contract(s) will be awarded by assigning addresses in groups of 500 - 800 within an estimated ten (10) work zones throughout the City. The lowest bidding contractor(s) will be given first opportunity to assume as many zones as they wish and as deemed by the City and its program managers are able to perform within the construction season for this remaining phase of the FAST Start Initiative.
- D. The Owner reserves the right to negotiate and award contracts to multiple Bidders. The final scope of assigned houses per Contract will be an equal estimate of total houses remaining to be explored per zone divided by number of SLR Contracts awarded and executed.
- E. The Owner reserves the right to award additional assignments once a Contract's original scope of work is completed and accepted by the Owner. It is the intent of this bid/proposal to assign any of the remaining addresses for discovery and replacement as needed and as the result of any addresses they may be remaining for exploration and/or replacement from the previous construction phase work.
- F. The Contractor shall not be entitled to renegotiate any unit pricing based upon the quantity of any work, whether assigned or not assigned.
- G. Bidder acknowledges that quantities of work are not guaranteed. Final payment for all unit price Bid items will be based on actual quantities of work completed as described in the Contract Documents.
- H. The maximum average cost over the entire project for any service line replacement is capped at \$5,000 each per the Concerned Pastor's Settlement Agreement. Bids with unit prices for Bid Items SLR.1 through SLR.12 in excess of this value will be rejected.

Note that Bid Item SLR.13 will contribute to the overall cost of the service line replacement. Work at homes with service lines in excess of 60' may be completed if necessary so that maximum average cost over the entire project for any service line replacement will not exceed \$5,000.

ITEM	DESCRIPTION	UNITS	UNIT PRICE	# Zones	TOTAL
Exploration/Verification					
to service					
EXP.1	Exploration / Excavation	5,000 EA	\$ 1,331.50	5	\$ 6,657,500.00
Service Line Replacement (SLR)					
SLR.1	¾" Partial Replacement, Public Side	336 EA	\$ 3,550.00	5	\$ 1,192,800.00
SLR.2	¾" Partial Replacement, Private Side	135 EA	\$ 3,550.00	5	\$ 479,250.00
SLR.3	¾" Full Replacement	475 EA	\$ 3,875.00	5	\$ 1,840,625.00
SLR.4	1" Partial Replacement, Public Side	14 EA	\$ 3,550.00	5	\$ 49,700.00



1

SLR.5	1" Partial Replacement, Private Side	10 EA	\$ 3,550.00	5	\$ 35,500.00
SLR.6	1" Full Replacement	20 EA	\$ 4,100.00	5	\$ 82,000.00
SLR.7	1-½ " Partial Replacement, Public Side	2 EA	\$ 3,900.00	5	\$ 7,800.00
SLR.8	1-½ " Partial Replacement, Private Side	1 EA	\$ 3,900.00	5	\$ 3,900.00
SLR.9	1-½ " Full Replacement	3 EA	\$ 4,100.00	5	\$ 12,300.00
SLR.10	2" Partial Replacement, Public Side	1 EA	\$ 4,100.00	5	\$ 4,100.00
ITEM	DESCRIPTION	UNITS	UNIT PRICE	TOTAL PRICE	
SLR.11	2" Partial Replacement, Private Side	1 EA	\$ 4,100.00	5	\$ 4,100.00
SLR.12	2" Full Replacement	2 EA	\$ 4,100.00	5	\$ 8,200.00
SLR.13	Additional Copper Service Line, >60 LF	1,500 LF	\$ 20.00	5	\$ 30,000.00
SLR.14	SLR, SHPO Zone w/ Archeologist	100 EA	30.00		3,000.00
Miscellaneous Work					
M.1	Cut & Cap, Abandoned House Service	150 EA	\$ 50.00		\$ 7,500.00
M.2	Sanitary Lateral Inspection	5,000 EA	\$XXXXXXXXXX		\$XXXXXXXXXXXXXXXXXX
M.3	Sanitary Lateral Repair	180 EA	\$ 50.00		\$ 9,000.00
M.4	LSM, Unstable Trench Bottom	270 CY	\$ 2.00		\$ 540.00
M.5	Traffic Control, Flagmen/Police Assisted	200 HR	\$ 40.00		\$ 8,000.00
M.6	Tree Removal, ≤24" Diameter	20 EA	\$ 100.00		\$ 2,000.00
M.7	Tree Removal, >24" Diameter	30 EA	\$ 200.00		\$ 6,000.00
TOTAL PRICE (IN FIGURES)			\$		10,443,815.00

Ten Million Four Hundred Forty Three Thousands Eight Hundred and Fifteen Dollars and Zero Cents

Dollars and Cents
(TOTAL PRICE IN WORDS)

*****ABOVE QUANTITIES ARE FOR WEIGHTING OF THE BID ONLY AND WILL NOT DICTATE ACTUAL QUANTITIES REQUIRED TO COMPLETE THE PROJECT*****



5.2 SCHEDULE OF SUPPLEMENTAL UNIT PRICES

- A. A corresponding credit shall be applied to the Contractor's payment application when the materials shown in the Unit Price Schedule listed below are provided by the Owner.

ITEM	DESCRIPTION	UNIT PRICE
Credit for Owner-Provided Materials		
OPM.1	3/4" Copper Service Line (60' Coil)	\$ \$160/ EA

ARTICLE 6 – TIME OF COMPLETION

- 6.1 Bidder agrees that the Work will be substantially complete on or before July 31, 2019 and may be offered to extend work (weather permitting) and/or until all funds on the contract have been exhausted.
- 6.2 Bidder accepts the provisions of the Agreement as to liquidate damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.1 The following documents are submitted with and made a condition of this Bid:
 - A. Required Bid security in the form of a Bid Bond. Refer to Section 00 43 13;
 - B. Non-collusion Affidavit of Prime Bidder included as Exhibit B.
 - C. Bid Certification Form included as Exhibit C.
 - D. List of Proposed Subcontractors. Use the form included as Exhibit D.
 - E. List of Proposed Suppliers. Use the form included as Exhibit E.
 - F. List of Project References. Use the form included as Exhibit F.
 - G. Evidence of authority to do business in the state of Michigan; or a written covenant to obtain such license within the time for acceptance of Bids;
 - H. Contractor's License No.: [2102171425] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;
 - I. Required Bidder Qualification Statement with Supporting Data; and
 - J. Ownership statement. Use the form included as Exhibit G.
 - K. Certification of Disadvantaged Business Participation Requirements.

ARTICLE 8 – DEFINED TERMS



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

ARTICLE 9 – BID SUBMITTAL

9.1 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____



A Partnership

Partnership Name: _____

By: _____

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

Name (typed or printed): _____

A Corporation

Corporation Name: Lang Constructors, Inc. _____ (SEAL)

State of Incorporation: Michigan _____

Type (General Business, Professional, Service, Limited Liability): S-Corp

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

Name (typed or printed): Jeffrey T. Lang _____

Title: Project Manager _____

(CORPORATE SEAL)

Attest Tracey Spicer Robertson
Tracey Spicer Robertson

Date of Qualification to do business in Michigan is 11 / 04 / 2010



LARA Corporations Online Filing System

Department of Licensing and Regulatory Affairs

ID Number: 800734001

[Request certificate](#) [New search](#)

Summary for: LANG CONSTRUCTORS INC.

The name of the DOMESTIC PROFIT CORPORATION: LANG CONSTRUCTORS INC.

Entity type: DOMESTIC PROFIT CORPORATION

Identification Number: 800734001 **Old ID Number:** 03490L

Date of Incorporation in Michigan: 11/04/2010

Purpose: All Purpose Clause

Term: Perpetual

Most Recent Annual Report: 2017

Most Recent Annual Report with Officers & Directors: 2016

The name and address of the Resident Agent:

Resident Agent Name: JEFFREY T LANG
Street Address: 9145 CORUNNA RD
Apt/Suite/Other:
City: FLINT

State: MI **Zip Code:** 48532

Registered Office Mailing address:

P.O. Box or Street Address: 9145 CORUNNA RD
Apt/Suite/Other:
City: FLINT

State: MI **Zip Code:** 48532

Act Formed Under: 284-1972 Business Corporation Act

Total Authorized Shares: 60,000

Written Consent

View filings for this business entity:

- ALL FILINGS
- ANNUAL REPORT/ANNUAL STATEMENTS
- ARTICLES OF INCORPORATION
- RESTATED ARTICLES OF INCORPORATION
- RESTATED ARTICLES OF INCORPORATION

[View filings](#)



A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____ (SEAL)

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

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____ (SEAL)

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

Name (typed or printed): _____

Title: _____

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

Bidder's Business Address _____

9145 Corunna Road, Flint, MI 48532

Phone No. (810)743-6702

Fax No. (810)743-7090

E-mail office@langbuild.com

SUBMITTED on March 7, 2019.

State Contractor License No. 2102171425.



Sworn and subscribed to before me this

7th day of March, 2019.


Notary or other officer authorized to administer oaths

My commission expires: April 12, 2021.

(Bidders shall not add any conditions or qualifying statements to this Bid as otherwise the Bid may be declared irregular as being not responsive to the advertisement. BIDDERS SHALL USE THIS BID FORM IN SUBMITTING THEIR BIDS.)

Bidder acknowledges that the above representations are material and important, and will be relied on by the Owner in awarding the Contract(s) for which this Bid is submitted. The Bidder understands that misstatement in this Bid is and shall be treated as fraudulent concealment from the Owner of the true facts relating to the submission of the Bid for this Contract.

Bidder, being duly sworn, deposes and states that he is the person making the above Bid or is authorized to make this Bid on behalf of said partnership, joint venture or corporation; and that said Bid is genuine and not sham or collusive, and is not made in the interest of or on behalf of any person, partnership, joint venture, or corporation not therein named, and that he has not directly or indirectly induced or solicited any bidder to put in a sham bid; that he has not directly or indirectly induced or solicited any other person, partnership, joint venture, or corporation to refrain from bidding, and that he has not in any manner sought by collusion to secure himself or to said partnership, joint venture, or corporation an advantage over other bidders.



State of Michigan

Tracey Spicer Robertson
— Notary Public —

Appointment Date & County: 4/22/2014, Shiawassee

Expiration Date: 4/12/2021



Tracey Spicer Robertson

Ruth Johnson, Secretary of State

Department of State



EXHIBIT B

NON-COLLUSION AFFIDAVIT

State of Michigan _____:

s.s.

County of Genesee _____:

I state that I am Owner _____ of Lang Constructors, Inc. _____
(Title) (Name of Firm)

and that I am authorized to make this affidavit on behalf of my Firm, its Owner, Directors and Officers. I am the person responsible in my firm for the price(s) and the amount of the bid.

I state that:

1. The price(s) and the amounts of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of the bid, and neither the approximate price(s) nor the approximate amount of the bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before the bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a discussion with, or inducement from, any firm or person to submit a complementary or noncompetitive bid.
5. Lang Constructors, Inc., its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

NONE.



I state that Lang Constructors, Inc. understands and
(Name of Firm)

Acknowledges that the above representations are material and important, and will be relied on by the City of Flint, Department of Purchase and Supplies in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that misstatement in this affidavit is and shall be treated as fraudulent concealment from the City of Flint, Department of Purchase and Supplies of the true facts relating to the submission of bids for this contract.



(Signature)

Jeffrey T. Lang

(Printed Name)

Project Manager

(Position / Job Title)



EXHIBIT C

BID CERTIFICATION FORM

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE BID

The undersigned hereby certifies, on behalf of the respondent named in this Certification (the "Respondent"), that the information provided in this offer submitted to the City of Flint, Department of Purchase and Supplies is accurate and complete, and that I am duly authorized to submit same. I hereby certify that the Respondent has reviewed all documents and requirements included in this offer and accept its terms and conditions.

Company (Respondent): Lang Constructors, Inc.

Address: 9145 Corunna Road

City, State & Zip Code: Flint, MI 48532

Phone / Fax Number: (810)743-6702/(810)743-7090

Email: office@langbuild.com

Authorized Representative: Jeffrey T. Lang

(Printed)



(Signature)





CAPACITY/QUALIFICATION STATEMENT

Lang Constructors, Inc. is a part of the Lang family of companies, located at 9145 Corunna Road, Flint, MI 48532, which has been based in the Genesee county area for over 16 years. Lang is currently contracted to work across the United States, with a strong presence in the Midwest. Several crews are focused in Michigan and Genesee County. Lang employ's both seasonal and permanent employees, ranging from laborers, carpenters, concrete finishers, operators and truck drivers.

Lang Constructors, Inc. consistently self performs labor/services for well over 200 jobs in a year. In addition, Lang held the Utility Maintenance Restoration contract with the City of Midland for 3 years and most recently completed the contract for the City of Flint lead line water replacement in 2017-2018. Services specifically relate to concrete/asphalt cut, break and removal, excavation, backfill and directional boring.

Lang Constructors, Inc. both owns, and leases equipment needed to perform these services in house. Lang has been a licensed, registered and bonded City of Flint contractor for over 7 years.

Lang Constructors, Inc. owns a fleet of trucks, dump trucks, skid steers, directional boring equipment, and utility equipment. Any additional items needed for this contract will be leased through local equipment suppliers. A financial statement will be provided upon further requests.

Lang Constructors, Inc. currently has 8-12, \$5,000-\$50,000 jobs starting and finishing at any given time.

Lang Constructors, Inc. has not been awarded a contract in which it resulted in a law suit, or defaulted, nor has any employees been involved in law suits while working on contracts. In addition, Lang Constructors, Inc. has never filed for bankruptcy.

Lang Constructors, Inc. completed their contract for phase 4 (2017), with the City of Flint which resulted in 596 homes in zone 10 to have water lines replaced. For the phase 5 City of Flint contract, over 1,500 addresses have been completed to date both exploratory and replacement.



EXHIBIT D

LIST OF SUBCONTRACTORS

Herewith is the list of Subcontractors referenced in the Bid submitted by: **Lang Constructors, Inc.**

(Bidder)

City of Flint, Department of Purchase and Supplies
(Owner)

dated 03/06/2019

The following work will be performed (or provided) by the following Subcontractors, and coordinated by us:

SECTION OF WORK	SUBCONTRACTOR'S NAME
NONE/TBD	



EXHIBIT E

LIST OF SUPPLIERS

Herewith is the list of Suppliers referenced in the Bid submitted by: Lang Constructors, Inc.

(Bidder)

City of Flint, Department of Purchase and Supplies
(Owner)

dated 03/06/2019

The following work will be performed (or provided) by the following Suppliers, and coordinated by us:

SECTION OF WORK	EQUIPMENT NAME	SUPPLIER'S NAME
Stone		Stoneco
Sand		Modern Concrete
Plumbing		Ferguson/ETNA
Equipment	Leased	Sunbelt



LANG **CONSTRUCTORS INC.**

March 6, 2019

To: City of Flint
1101 S. Saginaw Street
Flint, MI 48502

Re: Phase 6

PROFESSIONAL REFERENCES

CONTACTS

CHMP Inc.
Architects, Engineer & Surveyors
5198 Territorial Road
Grand Blanc, MI 4839
Greg Mason
(810)695-5910

Rowe Professional Services Co.
540 S. Saginaw St., Suite 200
Flint, MI 48502

Doug Schultz
(810)869-5170

PROJECT REFERENCES

CONTACTS

City of Flint
1101 S. Saginaw St.
Flint, MI 48502
Robert Bincsik
(810)766-7202

PROJECT

Lead Line Replacement
2017/2018 Contract
Self-Performed 100%

TYPE OF WORK

Excavation/Trenching



Mott Community College
1401 E. Court Street
Flint, MI 48503
Ken Gatenby
(810)762-0260

Various Projects
2001-Current
Self-Performed 90%

Concrete/Pipe/Earthwork

The University of Michigan-Flint
303 E. Kearsley Street
Tim Barden
(810)766-6704

Various Projects
2011-Current
Self-Performed 90%

Concrete/Pipe/Earthwork

City of Midland
City Hall
333 West Ellsworth Street
Midland, MI 48640-5132
Andrew Parrott
(989)837-3300

Contractual Services
Utility Pipe Maint. Rest.
2011-2014
Self-Performed 90%

Concrete/Pipe/Asphalt

State of Michigan
Dept. of Management
PO Box 30026
Lansing, MI 48909
Adnan Saraya: State Inspector
(517)373-9911

Mears State Park DNR

Self-Performed 90%

Concrete

State of Michigan
Office of Land & Facilities
Stevens T. Mason Blvd. 8th Floor
530 W. Allegan Street
PO Box 30033
Lansing, MI 48909
Ken Dao
(989)732-0794

Ostego Lake DNR

Self-Performed 90%

Concrete/Earthwork

State of Michigan
Office of Land & Facilities
Stevens T. Mason Blvd. 8th Floor
530 W. Allegan Street
PO Box 30033
Lansing, MI 48909
Aiden McLearn
(517)641-4903

Ortonville Shooting Range

Self-Performed 100%

Concrete
Range Building



<p>City of Farmington Hills 31555 W. 11 Mile Road Farmington Hills, MI 48336 James Cubera (248)871-2851</p>	<p>13 Mile CDBG Sidewalk Pedestrian Bridge Self-Performed 80%</p>	<p>Concrete</p>
<p>Ferndale Public Schools 881 Pinecrest Ferndale, MI 48220 Bill Weinrauch (248)515-8425</p>	<p>New Storage Building Self-Performed 75%</p>	<p>New Construction</p>
<p>Flushing Community Schools 522 N. McKinley Street Flushing, MI 48433 Daren Murray (810)241-8425</p>	<p>Flushing Sinking Fund Self-Performed 90%</p>	<p>Concrete</p>
<p>Oakland County Parks & Rec. 2100 Pontiac Lake Road Waterford, MI 48328-0462 John Thoel Jr. (248)343-2313</p>	<p>Paradise Island Walks Self-Performed 90%</p>	<p>Concrete</p>
<p>Village of Oxford 22 West Burdick Street Oxford, MI 48371-0094 Joe Young (248)249-8082</p>	<p>Pontiac Street Sidewalk CDBG Project Self-Performed 100%</p>	<p>Concrete</p>
<p>Mt. Pleasant Public Schools 720 N. Kinney Avenue Mt. Pleasant, MI 48858 Jeff Bates (989)790-9120</p>	<p>High School Tech Center & West Intermediate School Addition, Remodeling</p>	<p>Concrete</p>
<p>City of Swartz Creek 8083 Civic Drive Swartz Creek, MI 48473 Mike Royalty (810)341-7500</p>	<p>Elms Road Park CDBG Project Self-Performed 90%</p>	<p>Concrete</p>



City of Farmington Hills
31555 W. 11 Mile
Farmington Hills, MI 48336
James Cubera
(248)871-2851

Middle Belt
CDBG Sidewalk
Self-Performed 75%

Concrete
Storm Sewer

Village of Oxford
22 West Burdick Street
PO Box 94
Oxford, MI 48371-0094
Joe Young
(248)249-8082

West Street Sidewalk
CDBG Project
Self-Performed 100%

Concrete
Storm Sewer
Landscaping

USPS
2351 Bellingham Dr. Suite 1700
Troy, MI 48083
Michael T. Williams
(248)524-6613

Various Projects
Self-Performed 90%

Concrete

Vetcon Inc.
1200 Creekwood Trail
Burton, MI 48509
Dave Gregg
(810)820-2468

Various Projects
2016-Current
Self-Performed 90%

Concrete
Earthwork

Carman-Ainsworth Schools
G-3475 W. Court Street
Flint, MI 48507
Russ Parks
(810)591-8290

Various Projects
2011-Current
Self-Performed 90%

Concrete
Earthwork

Sincerely,



Jeffrey T. Lang
JTL/tsr



EXHIBIT F

PROJECT REFERENCES

Herewith is the list of Project References referenced in the Bid submitted by:

Lang Constructors, Inc.

(Bidder)

City of Flint, Department of Purchase and Supplies

(Owner)

dated 03/06/2019

The following work will be performed (or provided) by the following Project References, and coordinated by us:

PROJECT	City of Flint
Owner's Name	City of Flint
Owner's Contact Person	Robert Bincsik
Owner's Contact Phone Number	(810)766-7202
Owner's Contact Address	1101 S. Saginaw St. Flint
Owner's Contact Email Address	rbincsik@cityofflint.com
Description of Work (include value of contract and date of work): 2017 Water line replacement 2018 Water line replacement	
Owner's Name	Vetcon Inc.
Owner's Contact Person	David Gregg
Owner's Contact Phone Number	(810)820-2468
Owner's Contact Address	1200 Creekwood Trail Burton
Owner's Contact Email Address	dgregg@vet-con.us
Description of Work (include value of contract and date of work): Various projects on going	



Owner's Name	The University of Michigan-Flint
Owner's Contact Person	Tim Barden
Owner's Contact Phone Number	(810)766-6704
Owner's Contact Address	303 E. Kearsley St. Flint
Owner's Contact Email Address	tbarden@uofmflint.edu
Description of Work (include value of contract and date of work): Various projects on going	
Owner's Name	Mott Community College
Owner's Contact Person	Ken Gatenby
Owner's Contact Phone Number	(810)762-0260
Owner's Contact Address	1401 E. Court St. Flint
Owner's Contact Email Address	ken.gatenby@mcc.edu
Description of Work (include value of contract and date of work): Various projects on going	
Owner's Name	Carman-Ainsworth Community Schools
Owner's Contact Person	Russ Parks
Owner's Contact Phone Number	(810)591-8290
Owner's Contact Address	G-3475 W. Court St. Flint
Owner's Contact Email Address	rparks@carmanainsworth.org
Description of Work (include value of contract and date of work): Various projects on going	



1. Submit a working electronic copy of schedule and labeled to comply with requirements for submittals. Include type of schedule (initial or updated) and date on label.

E. Construction Progress Schedule and Updating Reports: Submit with Applications for Payment.

1.3 QUALITY ASSURANCE:

- A. Comply with the requirements specified in Section 01 43 00.

1.4 COORDINATION:

- A. Coordinate preparation and processing of schedules and reports with performance of construction activities and with scheduling and reporting of separate contractors.

PART 2 - PRODUCTS

2.1 CONTRACTOR'S CONSTRUCTION SCHEDULE, GENERAL:

A. Time Frame: Extend schedule from date established for the Notice to Proceed to date of Substantial Completion.

1. Contract completion date shall not be changed by submission of a schedule that shows an early completion date, unless specifically authorized by Change Order.

B. Activities: Treat work area and / or crew as a separate numbered activity for each main element of the Work. Comply with the following:

1. Activity Duration: Define activities so no activity is longer than 20 days, unless specifically allowed by Engineer. The durations shall be determined based upon resource planning under contractually-defined on-site work conditions. The Engineer may require that the duration of major activities be calculated by the scheduling software on the basis of the planned rate of daily production. In calculating activity durations, normal inclement weather shall be considered.
2. Submittal Review Time: Include review and resubmittal times indicated in Division 01 Section "Submittal" in schedule. Coordinate submittal review times in Contractor's construction schedule with submittal schedule.
3. Substantial Completion: Indicate completion in advance of date established for Substantial Completion, and allow no fewer than 20 days for Engineer's administrative procedures necessary for certification of Substantial Completion.
4. Punch List and Final Completion: Include not more than 30 days for completion of punch list items and final completion.

SECTION 01 32 17

CONSTRUCTION PROGRESS SCHEDULES

PART 1 - GENERAL

1.1 DESCRIPTION:

- A. Provide Construction Progress Schedules as indicated and specified.
- B. Summary:
 - 1. Section includes administrative and procedural requirements for planning, monitoring, and documenting the progress of construction during performance of the Work, including the following:
 - a. Startup construction schedule.
 - b. Contractor's construction schedule.
 - c. Construction schedule updating reports.
- C. The Contractor has the obligation and responsibility at all times to plan and monitor all of its activities, anticipating and scheduling its staff, materials, plant and Work methods in a manner that is likely to ensure completion of the Work in accordance with the terms and conditions of the Contract and at a rate that will allow it to be completed within the Contract Time.

1.2 SUBMITTALS:

- A. Submit in accordance with Section 01 33 00.
- B. Format for Submittals: Submit required submittals in the following format:
 - 1. Working electronic copy of schedule file, where indicated.
 - 2. PDF electronic file.
- C. Startup construction schedule.
 - 1. Within 15 days after execution of the AGREEMENT, submit three copies of a preliminary schedule indicating planned operations during first 60 days. Include cost of activities expected to be completed before submission and acceptance of the complete schedule.
- D. Contractor's Construction Schedule: Initial schedule, of size required to display entire schedule for entire construction period.

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PART 3 - EXECUTION

(Not Used)

END OF SECTION

C. Attendance.

1. Resident superintendent.
2. Subcontractor's foremen.

D. Suggested Agenda.

1. Health and safety.
2. Review agenda of Work progress since previous meeting.
3. Proposed progress and schedule for succeeding Work period.
4. Field observations, problems, and conflicts.
5. Problems which affect construction schedule.
6. Coordination and shutdown requirements.

1.4 HEALTH AND SAFETY MEETING:

A. Schedule Biweekly.

B. Location: Contractor's field office or on-site.

C. Attendance.

1. Resident superintendent.
2. Subcontractor's foremen.
3. Contractors. Health and Safety Manager
4. Owner's Health and Safety Representative
5. Engineer's Health and Safety Representative

D. Suggested Agenda.

1. Health and safety statistics.
2. Review Work progress since previous meeting.
3. New staff and training requirements.

PART 2 - PRODUCTS

(Not Used)

2. Construction sequence, coordination and shutdown requirements
 3. Construction schedule and progress reporting
 4. Deliveries
 5. Access
 6. Site utilization
 7. Temporary facilities and services
 8. Hours of work
 9. Safety, hazards and risks
 10. Housekeeping
 11. Submittals
 12. Change managements (request for quotation, change directives, change orders)
 13. Contract administration logs (request for information, etc.)
 14. Documentation of information for payment requests
- C. Discuss whether each element of current work is ahead of schedule. Determine how behind-time work will be expedited and secure commitments from the entities involved in doing so. Discuss whether schedule revisions are required to ensure that current work and subsequent work will be completed within the Contract Time. Review everything of significance which could affect the progress of the work.
- D. Within five days after each progress meeting date, the Engineer will forward copies of the minutes-of-the-meeting, to the Contractor.
- E. Immediately following each progress meeting where revisions to the Progress Schedule/Critical Path Schedule have been made or recognized (regardless of whether agreed to by each entity represented), revise the Schedule. Reissue revised Schedule within 10 working days after meeting.
- F. At intervals matching the preparation of payment requests, revise and reissue the Schedule to show actual progress of the work in relation to the latest revision of the Schedule.
- 1.3 CONSTRUCTION FOREMEN'S MEETING:
- A. Schedule weekly.
 - B. Location: Contractor's field office or on-site.

6. Liquidated damages.
7. Procedures for handling submittals such as substitutions and Shop Drawings.
8. Direction of correspondence and coordinating responsibility.
9. Progress meetings with the Engineer.
10. Equal opportunity requirements.
11. Provisions for inventory of material stored on-site or Owner-provided materials.
12. Unit pricing, application for progress payment, and progress payment procedures.
13. Change Order procedures.
14. Contractor's proposed Health and Safety Plan.
15. Contractor's proposed Quality Control Plan.
16. Construction sequencing and stipulated construction and constraints.

1.2 PROGRESS MEETINGS WITH ENGINEER:

A. In addition to other regular project meetings for other purposes (as indicated elsewhere in the Contract Documents), hold general progress meetings, as discussed at the pre-construction meeting, with times coordinated with preparation of payment requests. Meeting dates shall be established by the Engineer. Require every entity then involved in the planning, coordination or performance of work to be properly represented at each meeting. Include, when applicable:

1. Owner
2. Consultants
3. Separate contractors (if any)
4. Principal subcontractors
5. Suppliers/manufacturers/fabricators
6. Governing authorities
7. Special supervisory personnel and others with an interest or expertise in the progress of the work.

B. Suggested format includes, but not limited to following:

1. Review each entity's present and future needs including interface requirements

SECTION 01 31 19
PROJECT MEETINGS

PART 1 - GENERAL

1.1 PRECONSTRUCTION CONFERENCE:

- A. Engineer will schedule and conduct preconstruction conference in accordance with General Conditions and this section.
- B. Meeting will be conducted before Contractor starts Work at site.
- C. Location: At location to be selected by Engineer and Owner.
- D. Attendance.
 - 1. Contractor's Project Manager(s).
 - 2. Contractor's Resident Superintendent(s).
 - 3. Contractor's "hands-on" person designated by Contractor to submit Shop Drawings to Engineer.
 - 4. Subcontractors' or suppliers' representatives Contractor may desire to invite or Engineer may request.
 - 5. Engineer's representatives.
 - 6. Owner's representatives.
 - 7. Local utility representatives, if applicable.
- E. Suggested format includes, but not be limited to following:
 - 1. Project safety and traffic controls.
 - 2. Execution of the work.
 - 3. Disposal of spoils material.
 - 4. Presentation of preliminary progress schedule in accordance with Section 01 32 17 "Construction Progress Schedules" and preliminary schedule of Shop Drawing and sample submissions in accordance with Section 01 33 00 "Submittals" of Contract Documents.
 - 5. Check of required bonds and insurance policies prior to Notice to Proceed.

existing curb box or service line, confirmation and documentation of the material of construction for the existing water service line, backfilling of excavation, and restoration of disturbed areas.

Replacement of the water service line shall be made to the extents necessary if the service line material is identified as lead, galvanized steel or other non-copper material. Measurement and payment for this work will be made under the appropriate Bid Item SLR.1 through SLR.12.

C. Exploratory excavation work will only be conducted at the direction of the Engineer.

4.17 BID ITEM OPM.1 CREDIT FOR OWNER PROVIDED MATERIALS, ¾" COPPER SERVICE LINE (60' COIL)

A. The quantity of this Bid Item to be credited from the Contractor to the Owner shall be equal to the actual number of 60' coils of ¾" Type K copper provided by the Owner to the Contractor.

B. The unit price for this Bid Item shall constitute full compensation credit from the Contractor to the Owner for the provision of 60' coils of ¾" Type K copper by the Owner to the Contractor.

C. This Bid Item will not be considered in the overall cost of the Contract.

D. This Bid Item is for the provision of material only. Measurement and payment for actual service line replacement work will be made under the appropriate Bid Item SLR.1 through SLR.3.

E. The Contractor will be responsible for picking up the copper coils from the City of Flint's Water Service Center, 3310 E. Court Street and delivering the coils to the appropriate work sites.

PART 2 - PRODUCTS

(Not Used)

PART 3 - EXECUTION

(Not Used)

END OF SECTION

Contractor's convenience.

- C. The unit price for this item shall constitute full compensation for all labor, equipment, materials, filing and acquisition of permits, permit fees, and other incidental work necessary to perform the work in accordance with the traffic control permit for the specific site and as required by local laws and regulations.
- D. Measurement for payment shall be based on the actual number of hours that traffic control is provided by off-duty police officers or flagmen during the work, regardless of the number of officers or flagmen required to maintain traffic. Traffic controls will be paid only for the time controls are in place and being implemented and not a cumulative total for each man hour worked by each police officer or flagman. The Contractor will not be compensated for travel and set-up / break-down time of the traffic control measures.
- E. Static traffic controls such as cones, barricades, barrels, arrow boards, vehicles and truck mounted attenuators are considered incidental to this, and all other Bid Items.

4.15 BID ITEMS M.6 AND M.7 TREE REMOVAL

- A. The quantity to be paid under this item shall be equal to the actual number of trees removed according to the diameter of the tree measured at a point 6" above grade.
- B. The unit price for this item shall constitute providing all material, labor and equipment to completely remove a tree, including but not limited to: protecting existing facilities; notifications; offering wood to homeowner; chipping and removal of branches; arborist to properly identify and dispose of diseased trees; all excavation and stump removal, backfill and compaction; disposal of excess material; restoration where not specifically included in other Bid Items; and all necessary items and work to provide complete, tree removal.
- C. Measurement of the tree diameter shall be made between the narrowest points across the center of the tree stump.
- D. Tree removals shall only be completed at the direction of the Engineer and upon receiving authorization from the property owner to remove the tree.

4.16 BID ITEM EXP.1 EXPLORATION / EXCAVATION

- A. The quantity to be paid under this item shall be equal to the actual number of excavations completed that provide the ability to identify the material of construction of the existing water service line. This work will only be completed for service lines that were not identified during the Phase V Exploratory Excavation and those requiring new Phase VI exploration. Excavation will be made at the estimated location on both sides of the existing curb stop or where directed by the Engineer.
- B. The unit price for this item shall constitute full compensation for the excavation, restoration, and associated tasks for each excavation completed as specified, regardless of depth and location. Work includes, but is not limited to locating the

completed.

Repairs required to be made as a result of damage caused by the Contractor will not be paid under this or any other Bid Item. The Contractor will be responsible to repair any residential sewer lateral damaged by the Contractor during the execution of the work at no additional cost to the Owner.

- D. The Contractor will be required to file and pay for an excavation permit to complete the work. All permitting efforts and fees related to excavation is considered incidental and are to be included in the unit price for the work.
- E. City inspectors will provide the final approval regarding the acceptance of the lateral repair work. No backfilling of the excavation shall occur until this approval is provided. The sanitary lateral will be re-repaired as directed if the repair is not approved by the City Inspector. This work will be completed at no additional cost to the City. Contractor time, material and labor costs associated with obtaining this approval is considered incidental to the work. The Contractor should assume that the inspection approval may take up to 30 minutes from the time the City inspector is contacted.

4.13 BID ITEM M.4 LSM, UNSTABLE TRENCH BOTTOM

- A. The quantity to be paid under this item shall be equal to the actual number of cubic yards of low strength concrete material placed to stabilize the foundation of an excavation when the installation of aggregate does not provide a suitable foundation.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete the placement of LSM, including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; all excavation; permanent and temporary shoring; dewatering; removal and disposal of excess material and documentation of work completed.
- C. Placement of LSM shall only be made at the direction of the Engineer.
- D. Excavation and placement of aggregate to stabilize the trench shall be considered incidental to this Bid Item and all other bid items.
- E. This Bid Item is only for providing and placing the LSM. Measurement and payment for the infrastructure work completed will be made under the respective bid item.

4.14 BID ITEM M.5 TRAFFIC CONTROL, FLAGMEN / POLICE ASSISTED

- A. The quantity to be paid under this item shall be equal to the number of hours flagmen or police are required to maintain traffic control as required by the traffic control permit.
- B. The unit price for this item shall constitute providing all material, labor and equipment, including police vehicles, to maintain the safe flow of traffic when specifically required by the traffic control permit, and not required simply for

not approved by the City Inspector. This work will be completed at no additional cost to the City. Contractor time, material and labor costs associated with obtaining this approval is considered incidental to the work. The Contractor should assume that the inspection approval may take up to 30 minutes from the time the City inspector is contacted.

4.11 BID ITEM M.2 SANITARY LATERAL INSPECTION:

- A. The quantity to be paid under this Bid Item shall be equal to the actual number of residential sanitary sewer laterals inspected. The extents of this Bid Item include the connection at the municipal sewer main to the cleanout outside the home or the exterior basement wall if no cleanout exists.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete a full CCTV inspection of the residential sewer lateral for properties where the water service line will be partially or completely replaced, including but not limited to: protecting existing facilities; documentation and provision of inspection data; and other associated work to provide a complete inspection.
- C. The unit price for this item shall constitute full compensation for the inspection of the residential sewer lateral as specified, regardless of depth and location. Work includes, but is not limited to locating the existing access point; control of flow within the sewer and lateral; and documentation of work completed.

4.12 BID ITEM M.3 SANITARY LATERAL REPAIR

- A. The quantity to be paid under this Bid Item shall be equal to the actual number of residential sanitary sewer laterals repaired and accepted by Engineer. The extents of this Bid Item will be as necessary to replace lateral piping determined to be in a deteriorated structural state prior to the start of the service line replacement work.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete the repair of a residential sanitary sewer lateral, including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; providing alternate or temporary service if needed; all excavation; permanent and temporary shoring; dewatering; all piping, fittings and adapters; connecting to existing facilities, piping and fittings; backfill and compaction; removal and disposal of excess material; restoration where not specifically included in other Bid Items; and all necessary items and work to provide a working residential sanitary sewer lateral.
- C. The unit price for this item shall constitute full compensation for the excavation and associated tasks for each sewer lateral repair completed as specified, regardless of depth and location. Work includes, but is not limited to locating the existing sewer lateral; removal and disposal of existing sidewalk, driveway, curb and paving as necessary to complete the repair; removal and disposal of deteriorated or damaged lateral piping; installation of a new piping and couplings; reconnection of new and existing components; and documentation of work

without consideration of the diameter of the piping, the type of work being completed, or the means and methods used to complete the work.

- A. All work and requirements for the completion of either full or partial service line replacement or other work apply to this Bid Item.
- B. Payment shall only be made once for each excavation site.
- C. No backfilling of the excavation shall occur until the archeologist confirms that the site is free of historical artifacts and can be backfilled. This Bid Item accounts for the Contractors time, material and labor until the site is cleared by the archeologist. Payment for this Bid Item will only be made once for each service line. The Contractor should assume that the archeological investigation may take up to 1 hour for each site.
- D. Measurement and payment for the actual service line replacement work will be made under the respective diameter, length and replacement extent classification of Bid Items SLR.1 through SLR.13.

4.10 BID ITEM M.1 CUT & CAP, ABANDONED HOUSE SERVICE:

- A. The quantity to be paid under this Bid Item shall be equal to the actual number of residential service lines cut, capped, and accepted by Engineer.
- B. Measurement and payment for this Bid Item will be made without consideration of the diameter of the service line.
- C. The unit price for this item shall constitute providing all material, labor and equipment to cut and cap a lead or galvanized service line to an abandoned property including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; all excavation; permanent and temporary shoring; dewatering; all piping, fittings and adapters; backfill and compaction; removal and disposal of excess material; and restoration where not specifically included in other Bid Items.
- D. The unit price for this item shall constitute full compensation for the excavation and associated tasks for each lead or galvanized service line cut and capped regardless of depth and location. Work includes, but is not limited to locating the existing curb box; removal and disposal of existing sidewalk, driveway, curb and paving as necessary to complete the service line abandonment; disconnection and abandonment of existing service line material; and documentation of work completed.
- E. The Contractor will be required to file and pay for an excavation permit to complete the work. All permitting efforts and fees related to excavation is considered incidental and are to be included in the unit price for the work.
- F. City inspectors will provide the final approval regarding the acceptance of the abandonment work. No backfilling of the excavation shall occur until this approval is provided. The service line will be repaired as directed if the abandonment is

- G. The Contractor will be required to file and pay for an excavation permit to complete the work. All permitting efforts and fees related to excavation is considered incidental and are to be included in the unit price for the work.
- H. The Contractor will be required to file and pay for a plumbing permit if the residential water meter is moved more than 2' in any direction from its current location. All permitting efforts and fees related to moving the water meter are considered incidental and are to be included in the unit price for the work.
- I. City inspectors will provide the final approval regarding the acceptance of the service line replacement work. No backfilling of the excavation shall occur until this approval is provided. The service line will be repaired as directed if the installation is not approved by the City Inspector. This work will be completed at no additional cost to the City. Contractor time, material and labor costs associated with obtaining this approval is considered incidental to the work. The Contractor should assume that the inspection approval may take up to 30 minutes from the time the City inspector is contacted.
- J. A plumbing permit and subsequent inspection will be required in the event the existing water meter is moved more than 2' from its existing location. The Contractor is responsible for applying for and obtaining the proper permits required, including any fees, and for scheduling the final inspection. Any repairs or revisions required, as well as any permit reapplications or re-inspections, as a result of a failed plumbing inspection shall be made by the Contractor at no additional cost to the Owner.

4.8 BID ITEM SLR.13 ADDITIONAL COPPER SERVICE LINE, >60 LF

- A. The quantity to be paid under this Bid Item shall be equal to the additional LF greater than 60, used to complete either the full or partial replacement of the water service line in entirety. Measurement and payment for this Bid Item will be made without consideration of the diameter of the service line or the means and methods used to complete the water service replacement.
- B. All work and requirements for the completion of either full or partial service line replacement apply to this Bid Item.
- C. This Bid Item is for the total length of the service line replaced and will only be made once for each service line.
- D. Measurement and payment for the initial 60 LF of either partial or full replacement of the service line will be made under the respective diameter and replacement extent classification of Bid Items SLR.1 through SLR.12.

4.9 BID ITEM SLR.14 SLR, SHPO ZONE W/ ARCHEOLOGIST

The quantity to be paid under this Bid Item shall be equal to number of sites in the SHPO Zone where an archeologist will inspect the excavation to determine if any historical artifacts are observed in the excavation area. Owner shall contract with an archaeologist as necessary. Measurement and payment for this Bid Item will be made

4.7 BID ITEM SLR.3, SLR.6, SLR.9, SLR.12 WATER SERVICE, VARIOUS SIZE (3/4" THROUGH 2") FULL REPLACEMENT:

- A. The quantity to be paid under these Bid Items shall be equal to the actual number of replacements completed, tested and accepted by Engineer, according to the diameter of the service line installed. The extents of this Bid Item are from, and include the corporation stop connection at the municipal water main up to the residential water meter.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete a partial replacement of existing water service line, including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; providing alternate or temporary service if needed; all excavation; permanent and temporary shoring; dewatering; all piping, fittings and adapters; connecting to existing facilities, piping and fittings; backfill and compaction; testing; disinfection and flushing; removal and disposal of excess material, including existing lead and galvanized steel piping and contaminated soil; restoration where not specifically included in other Bid Items; and all necessary items and work to provide a complete, working water service connection.
- C. The unit price for this item shall constitute full compensation for the excavation, replacement, and associated tasks for each complete service line replacement completed as specified, regardless of depth and location. Work includes, but is not limited to locating the existing curb box; removal and disposal of existing sidewalk, driveway, curb and paving as necessary to complete the service line replacement; disconnection and abandonment of existing service line material; installation of a new corporation stop; installation of new service line piping of a diameter matching the existing piping; installation of a new curb stop and box; core drilling through and restoration of the house wall or basement floor; containment, collection and disposal of dust and debris caused by installation of the water service line through the house wall; installation of a sampling port; relocation of the existing meter as necessary; reconnection of new and existing components; and documentation of work completed.
- D. Payment for this Bid Item shall be for the first 60 LF of service line replaced. Payment for additional service line replacement beyond the initial 60 LF shall be made according to Bid Item SLR.13.
- E. Credit for 3/4" copper service line material furnished by the City shall be made according to the unit price provided under Bid Item OPM.1.
- F. A new corporation stop and connection to the municipal water main will be installed for each residential water service line in those instances where multiple service lines manifold into a single service connection at the municipal water main. Each residential water service line will be provided with a dedicated corporation stop and connection to the municipal water distribution system. New corporation stops and connections to the municipal water system are considered incidental and are to be included in the unit price for the work.

the work. All permitting efforts and fees related to excavation is considered incidental and are to be included in the unit price for the work.

- G. The Contractor will be required to file and pay for a plumbing permit if the residential water meter is moved more than 2' in any direction from its current location. All permitting efforts and fees related to moving the water meter are considered incidental and are to be included in the unit price for the work.
- H. City inspectors will provide the final approval regarding the acceptance of the service line replacement work. No backfilling of the excavation shall occur until this approval is provided. The service line will be repaired as directed if the installation is not approved by the City Inspector. This work will be completed at no additional cost to the City. Contractor time, material and labor costs associated with obtaining this approval is considered incidental to the work. The Contractor should assume that the inspection approval may take up to 30 minutes from the time the City inspector is contacted.
- I. A plumbing permit and subsequent inspection will be required in the event the existing water meter is moved more than 2' from its existing location. The Contractor is responsible for applying for and obtaining the proper permits required, including any fees, and for scheduling the final inspection. Any repairs or revisions required, as well as any permit reapplications or re-inspections, as a result of a failed plumbing inspection shall be made by the Contractor at no additional cost to the Owner.

incidental and are to be included in the unit price for the work.

H. City inspectors will provide the final approval regarding the acceptance of the service line replacement work. No backfilling of the excavation shall occur until this approval is provided. The service line will be repaired as directed if the installation is not approved by the City Inspector. This work will be completed at no additional cost to the City. Contractor time, material and labor costs associated with obtaining this approval is considered incidental to the work. The Contractor should assume that the inspection approval may take up to 30 minutes from the time the City inspector is contacted.

4.6 BID ITEMS SLR.2, SLR.5, SLR.8 AND SLR.11 - WATER SERVICE, VARIOUS SIZE (3/4" THROUGH 2") PARTIAL REPLACEMENT, PRIVATE SIDE:

- A. The quantity to be paid under these Bid Items shall be equal to the actual number of replacements completed, tested and accepted by Engineer, according to the diameter of the service line installed. The extents of this Bid Item are from, and include the connection at the curb stop up to the residential water meter.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete a partial replacement of existing water service line, including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; providing alternate or temporary service if needed; all excavation; permanent and temporary shoring; dewatering; all piping, fittings and adapters; connecting to existing facilities, piping and fittings; backfill and compaction; testing; disinfection and flushing; removal and disposal of excess material, including existing lead and galvanized steel piping and contaminated soil; restoration where not specifically included in other Bid Items; and all necessary items and work to provide a complete, working water service connection.
- C. The unit price for this item shall constitute full compensation for the excavation, replacement, and associated tasks for each partial service line replacement completed as specified, regardless of depth and location. Work includes, but is not limited to locating the existing curb box; removal and disposal of existing sidewalk, driveway, curb and paving as necessary to complete the service line replacement; disconnection and abandonment of existing service line material; installation of new service line piping of a diameter matching the existing piping; installation of a new curb stop and box; core drilling through and restoration of the house wall or basement floor; containment, collection and disposal of dust and debris caused by installation of the water service line through the house wall; installation of a sampling port; relocation of the existing meter as necessary; reconnection of new and existing components; and documentation of work completed.
- D. Payment for this Bid Item shall be for the first 60 LF of service line replaced. Payment for additional service line replacement beyond the initial 60 LF shall be made according to Bid Item SLR.13.
- E. Credit for 3/4" copper service line material furnished by the City shall be made according to the unit price provided under Bid Item OPM.1.
- F. The Contractor will be required to file and pay for an excavation permit to complete

4.5 BID ITEM SLR.1, SLR.4, SLR.7 AND SLR.10 - WATER SERVICE, VARIOUS SIZE (3/4" THROUGH 2") PARTIAL REPLACEMENT, PUBLIC SIDE:

- A. The quantity to be paid under these Bid Items shall be equal to the actual number of replacements completed, tested and accepted by Engineer, according to the diameter of the service line installed. The extents of this Bid Item are from, and include the corporation stop connection at the municipal water main up to and including the curb stop.
- B. The unit price for this item shall constitute providing all material, labor and equipment to complete a partial replacement of existing water service line, including but not limited to: installation, delivery, storage and handling of materials; protecting existing facilities; providing alternate or temporary service if needed; all excavation; permanent and temporary shoring; dewatering; all piping, fittings and adapters; connecting to existing facilities, piping and fittings; backfill and compaction; testing; disinfection and flushing; removal and disposal of excess material, including existing lead and galvanized steel piping and contaminated soil; restoration where not specifically included in other Bid Items; and all necessary items and work to provide a complete, working water service connection.
- C. The unit price for this item shall constitute full compensation for the excavation, replacement, and associated tasks for each partial service line replacement completed as specified, regardless of depth and location. Work includes, but is not limited to locating the existing curb box; removal and disposal of existing sidewalk, driveway, curb and paving as necessary to complete the service line replacement; disconnection and abandonment of existing service line material; installation of a new corporation stop; installation of new service line piping of a diameter matching the existing piping; installation of a new curb stop and box; reconnection of new and existing components; and documentation of work completed.
- D. Payment for this Bid Item shall be for the first 60 LF of service line replaced. Payment for additional service line replacement beyond the initial 60 LF shall be made according to Bid Item SLR.13.
- E. Credit for 3/4" copper service line material furnished by the City shall be made according to the unit price provided under Bid Item OPM.1.
- F. A new corporation stop and connection to the municipal water main will be installed for each residential water service line in those instances where multiple service lines manifold into a single service connection at the municipal water main. Each residential water service line will be provided with a dedicated corporation stop and connection to the municipal water distribution system. New corporation stops and connections to the municipal water system are considered incidental and are to be included in the unit price for the work.
- G. The Contractor will be required to file and pay for an excavation permit to complete the work. All permitting efforts and fees related to excavation is considered

as cones, barricades, and barrels; labor; and equipment such as arrow boards, vehicles, and truck mounted attenuators to safely conduct traffic control operations as required in the areas of the Work. Stand-alone materials and equipment such as cones, barricades, barrels, arrow boards, vehicles, and truck mounted attenuators are considered "static traffic controls".

Contractor is responsible to obtain, pay for, and maintain traffic control permits as dictated by local, state and federal agencies. All permitting efforts and fees related to traffic controls is considered incidental and are to be included in the unit price for the work.

Traffic controls and associated tasks are to be included in each Bid Item and are considered to be stand-alone, static traffic controls such as cones, barricades, barrels, arrow boards, vehicles and truck mounted attenuators only. Payment for flagmen or police required to control traffic conditions will be paid for under Bid Item M.5.

5. Project safety controls and measures.
6. Removal and disposal of excavation spoils and construction debris, including existing lead and galvanized service line material and contaminated soil, at an approved facility, including associated fees and meeting disposal requirements established by the disposal facility.
7. Provision of water including obtaining and maintaining written authorization to withdraw water and payment of all associated costs and fees; transport of water to work sites; provision or rental of hydrant meters; and all other costs and efforts to obtain water for use at work sites.
8. Coordination of work with Owner, Engineer and field representatives; other contractors; and local property owners.
9. Protection of existing site features; residential service lines; and other utilities.
10. Travel and mobilization of equipment, tools and labor between individual property work sites.
11. Recording and documentation of work and site conditions.

SECTION 01 29 01

MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.1 DESCRIPTION:

A. Summary:

1. Section includes administrative and procedural requirements for unit prices.

1.2 DEFINITIONS:

- A. Unit price is an amount incorporated in the Agreement as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, added to or deducted from the Contract Sum by appropriate modification, if the scope of Work or estimated quantities of Work required by the Contract Documents are increased or decreased.

1.3 MEASUREMENT AND PAYMENT – GENERAL:

- A. The following paragraphs describe the measurement of and payment for the work to be done under the items listed in the Bid Form.
- B. Each unit price stated in the Bid shall constitute full compensation as herein specified for each item of work completed in accordance with the specifications.
- C. In all items involving excavation, the price shall be based on doing the entire excavation in earth. Where rock is excavated, the price therefor, shall be in addition to the cost of excavating earth, and no deduction will be made in the amount for earth excavation.
- D. Unit prices shall include:
1. Labor, equipment, materials, and other incidental work necessary to mobilize to the project site; complete the work as specified; and demobilize operations.
 2. Administrative tasks and costs, including but not limited to attendance at meetings; project scheduling; project and construction management; application, approval and renewal, including associated fees, of required permits; ancillary costs such as bonding and insurances; management of subcontractors; project coordination; notification of Miss Dig; and documentation of work and site conditions.
 3. General site restoration of disturbed areas including backfilling and compaction of excavations; restoration as required; and cleanup of site.
 4. Traffic controls and administrative tasks, including permitting; associated fees; and maintenance and renewal of permitting. This also includes all materials such

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comply with all applicable Federal, State, and local laws, and regulations concerning waste material disposal, as well as the specific requirements stated in this Section and elsewhere in the Specifications.

- C. The Contractor is advised that the disposal of excess excavated material in wetlands, stream corridors, and plains is strictly prohibited even if the permission of the property owner is obtained. Any violation of this restriction by the Contractor or any person employed by him, will be brought to the immediate attention of the responsible regulatory agencies, with a request that appropriate action be taken against the offending parties. Therefore, the Contractor will be required to remove the fill at his own expense and restore the area impacted.

- D. The Contractor shall provide a disposal plan that identifies the location where the Contractor intends to dispose of all spoils materials. The Contractor will be responsible for all labor, equipment, permitting and fees associated with the removal and acceptable disposal of construction debris and spoil materials.

PART 2 - PRODUCTS

(Not Used)

PART 3 - EXECUTION

(Not Used)

END OF SECTION

coordinate with the Engineer and local residents to ensure that operations are carried out as efficiently as possible.

1.11 PROTECTION AND RELOCATION OF EXISTING STRUCTURES AND UTILITIES:

- A. The Contractor shall assume full responsibility for the protection of all buildings, structures, and utilities, public or private, including poles, signs, services to buildings, utilities in the street, gas pipes, water pipes, hydrants, sewers, drains, and electric, fiber optic and telephone cables, whether or not they are shown on the Drawings. The Contractor shall carefully support and protect all such structures and utilities from injury of any kind. Any damage resulting from the Contractor's operations shall be repaired by him at his expense.
- B. The Contractor shall bear full responsibility for obtaining all locations of underground structures and utilities (including existing water services, drain lines, and sewers). Services to buildings shall be maintained, and all costs or charges resulting from damage thereto shall be paid by the Contractor.
- C. Protection and temporary removal and replacement of existing utilities and structures as described in this Section shall be a part of the work under the Contract and all costs in connection therewith shall be included in the unit prices bid in the Bid Form.
- D. If, in the opinion of the Engineer, permanent relocation of a utility is required, he may direct the Contractor, in writing, to perform the work. Work so ordered will be paid at the Contract unit prices, if applicable, or as extra work under Article 11 of the Supplementary Conditions. If relocation of a privately owned utility is required, the Engineer will notify the Utility to perform the work as expeditiously as possible. The Contractor shall fully cooperate with the Engineer and Utility, and shall have no claim for delay due to such relocation. The Contractor shall notify all utility companies in writing at least 72 hours (excluding Saturdays, Sundays, and Legal holidays) before excavating in any public way. Contractor shall also notify Michigan 811 at least 72 working hours prior to start of work.
- E. The Contractor shall coordinate the removal and replacement of traffic loops and signals, if required for the performance of the work, at no additional cost to the Owner.

1.12 CLEANUP AND DISPOSAL OF EXCESS MATERIAL:

- A. During the course of the work, the Contractor shall keep the site of his operations in as clean and as neat a condition as is possible. He shall dispose of all residue resulting from the construction work and, at the conclusion of the day, he shall remove and haul away any surplus excavation, broken pavement, lumber, equipment, temporary structures, and any other refuse remaining from the construction operations, and shall leave the entire site of the work in a neat and orderly condition.
- B. In order to prevent environmental pollution arising from the construction activities related to the performance of this Contract, the Contractor and his subcontractors shall

- B. Whenever and wherever, in the opinion of the Engineer or permitting agency, traffic is sufficiently congested or public safety is endangered, the Contractor, as required, shall furnish flagmen and / or uniformed police officers to direct traffic and to keep traffic off the roadway area affected by his construction operations.
- C. Payment for traffic controls shall be made in accordance with Section 01 29 01.
- D. The employment or presence of traffic flagmen, special officers, or police shall in no way relieve the Contractor of any responsibility or liability which is his under the terms of the contract.

1.8 CARE AND PROTECTION OF PROPERTY:

- A. The Contractor shall be responsible for the preservation of all public and private property, and shall use every precaution necessary to prevent damage thereto. If any direct or indirect damage is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work on the part of the Contractor, such property shall be restored by the Contractor, at his expense, to a condition similar or equal to that existing before the damage was done, or he shall make good the damage in other manner acceptable to the Engineer.

1.9 INTERFERENCE WITH EXISTING WORKS:

- A. The Contractor shall at all times conduct his operations so as to interfere as little as possible with existing water distribution system. The Contractor shall develop a program, in cooperation with the Engineer and interested officials, which shall provide for the construction and putting into service of the new works in the most orderly manner possible. This program shall be adhered to except as deviations therefrom are expressly permitted. All work of connecting with, cutting into, and reconstructing existing pipes or structures shall be planned to interfere with the operation of the existing facilities for the shortest possible time when the demands on the facilities best permit such interference, even though it may be necessary to work outside of normal working hours to meet these requirements. Before starting work which will interfere with the operation of existing facilities, the Contractor shall do all possible preparatory work and shall see that all tools, materials, and equipment are made ready and at hand.
- B. The Contractor shall make such minor modifications in the work relating to existing structures as may be necessary, without additional compensation.
- C. The Contractor shall have no claim for additional compensation by reason of delay or inconvenience in adapting his operations to the need for continuous flow of water and sewage.

1.10 MAINTAINING FLOWS:

- A. It is essential that the number and duration of interruptions to residential water service be minimized as much as possible during the execution of the work. Contractor will

1.4 OPEN EXCAVATIONS:

- A. All open excavations shall be adequately safeguarded by providing temporary barricades, fencing, caution signs, lights, and other means to prevent accidents to persons and damage to property, and in accordance with applicable occupational health and safety regulations. The Contractor shall, at his own expense, provide suitable and safe bridges and other crossings for accommodating travel by pedestrians and workmen. Bridges provided for access during construction shall be removed when no longer required. The length or size of excavation will be controlled by the particular surrounding conditions, but shall always be confined to the limits prescribed by the Engineer. If the excavation becomes a hazard, or if it excessively restricts traffic at any point, the Engineer may require special construction procedures such as limiting the length of the open trench, prohibiting stacking excavated material in the street, and requiring that the trench shall not remain open overnight.
- B. The Contractor shall take precautions to prevent injury to the public due to open trenches. All trenches, excavated material, equipment, or other obstacles which could be dangerous to the public shall be well lighted at night.

1.5 TEST PITS:

- A. Test pits for the purpose of locating underground pipeline or structures in advance of the construction shall be excavated and backfilled by the Contractor at the direction of the Engineer. Test pits shall be backfilled immediately after their purpose has been satisfied and the surface restored and maintained in a manner satisfactory to the Engineer.

1.6 INTERFERENCE WITH AND PROTECTION OF STREETS:

- A. The Contractor shall not close or obstruct any portion of a street, road, or private way without obtaining permits therefor from the proper authorities. If any street, road or private way shall be rendered unsafe by the Contractor's operations, he shall make such repairs or provide such temporary ways or guards as shall be acceptable to the proper authorities.
- B. Streets, roads, private ways, and walks not closed shall be maintained passable and safe by the Contractor, who shall assume and have full responsibility for the adequacy and safety of provisions made therefor.
- C. The Contractor shall, at least 24 hours in advance, notify the Police and Fire Departments in writing, with a copy to the Engineer, if the closure of a street or road is necessary. The Contractor shall cooperate with the Police Department in the establishment of alternate routes and shall provide adequate detour signs, plainly marked and well lighted, in order to minimize confusion.

1.7 TRAFFIC CONTROL:

- A. For control of moderate traffic, the Contractor shall provide an adequate number of flagmen and other traffic controls as required by the traffic control permit.

SECTION 01 14 14

CONTROL OF WORK

PART 1 - GENERAL

1.1 LABOR AND EQUIPMENT AND HOURS OF CONSTRUCTION:

- A. Furnish labor and equipment which will be efficient, appropriate, and large enough to secure a satisfactory quality of work and a rate of progress which will insure the completion of the work within the Contract Time. If at any time such work appears to the Engineer to be inefficient, inappropriate, or insufficient for securing the quality of work required or for producing the rate of progress aforesaid, the Engineer may order the Contractor to increase the efficiency, change the character, or increase the labor and equipment and the Contractor shall conform to such order. Failure of the Engineer to give such order shall in no way relieve the Contractor of his obligations to secure the quality of the work and rate of progress required.
- B. Normal construction activity shall take place only between the hours of 7:00 AM to 5:00 PM, excluding Saturdays, Sundays, and legal holidays. Work outside the above time periods will be permitted only on an emergency basis and only with the written approval of the Owner.

1.2 OCCUPYING PRIVATE LAND:

- A. The Contractor shall not (except after written consent from the proper parties) enter or occupy with personnel, tools, materials, or equipment any land outside the rights of way or property of the Owner. A copy of the written consent shall be given to the Engineer.

1.3 PIPE LOCATIONS:

- A. Exterior pipelines will be located substantially as indicated on the Drawings, but the right is reserved to the Owner, acting through the Engineer, to make such modifications in location as may be found desirable to avoid interference with existing structures or for other reasons. Where fittings, etc., are noted on the Drawings, such notation is for the Contractor's convenience and does not relieve him from laying and jointing different or additional items where required.
- B. Small interior piping is indicated diagrammatically on the Drawings, and the exact location is to be determined in the field. Piping shall be arranged in a neat, compact, and workmanlike manner, with a minimum of crossing and interlacing, so as not to interfere with equipment or access ways, and, in general, without diagonal runs. New service connections between the curb stop and existing water main shall be made perpendicular to the existing main and will run in a straight path, without bends, to the house.

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1.9 WORK RESTRICTIONS:

- A. Work Restrictions, General: Comply with restrictions on construction operations.**
 - 1. Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit work to normal business working hours of 7:00 AM to 5:00 PM., Monday through Friday, unless otherwise indicated or authorized.**
 - 1. **Weekend, Holiday, and Early Morning Hours:** Weekend, holiday and early morning work shall not be conducted without prior approval from the Owner and Engineer.
 - 2. **Hours for Utility Shutdowns:** Coordinate and obtain approval from the owning Utility before conducting any utility shutdowns.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:**
 - 1. Notify Engineer not less than two days in advance of proposed utility interruptions.
 - 2. Obtain written permission from the respective utility owner before proceeding with utility interruptions.
- D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruption with Owner.**
 - 1. Notify Engineer not less than two days in advance of proposed disruptive operations.
 - 2. Obtain Engineer's written permission before proceeding with disruptive operations.

PART 2 - PRODUCTS

(Not Used)

PART 3 - EXECUTION

(Not Used)

END OF SECTION

1.7 ACCESS TO SITE:

- A. General: Contractor shall have limited use of Project site for construction operations as indicated by requirements of this Section.
- B. Use of Site: Limit use of Project site to work in areas indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
 - 1. Limits: Confine construction operations to public right-of-way at curb stop, within a 5-ft radius of the curb stop if conducting work on private property, as directed by the Engineer, and in street, private property at location where water service line enters the residence, inside the private residence only as necessary to reconnect the new copper service line to the existing residential water meter.
 - 2. Driveways, Walkways and Entrances: Keep driveways, sidewalks and entrances serving premises clear and available to property owner and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
 - a. Schedule deliveries to minimize use of driveways and entrances by construction operations.
 - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.
- C. Condition of Existing Building: Maintain portions of existing building affected by construction operations in a weather tight condition throughout construction period. Repair damage caused by construction operations.

1.8 COORDINATION WITH OCCUPANTS:

- A. Full Owner Occupancy: Resident will occupy site and existing building during entire construction period. Cooperate with resident during construction operations to minimize conflicts and facilitate usage. Perform the Work so as not to interfere with residents' day-to-day operations. Maintain existing exits unless otherwise indicated.
 - 1. Maintain access to existing walkways, driveways, and other adjacent occupied or used facilities. Do not close or obstruct walkways, driveways, or other occupied or used facilities without written permission from property owner and approval of authorities having jurisdiction.
 - 2. Engineer will notify property owner in advance of activities that will affect resident's access to the house.
 - 3. New water service connections shall be fully operational, and required tests and inspections shall be successfully completed before the Contractor moves to a new location or completes work for the day.

work. No new work will commence until previously assigned work is completed and accepted.

- B. The Owner reserves the right to not award additional assignments once a Contract's initial assignment, or previously awarded additional assignments, is completed.
- C. Before commencing Work of each phase, submit an updated copy of Contractor's construction schedule showing the sequence, commencement and completion dates.

1.5 WORK UNDER SEPARATE CONTRACTS:

- A. General: Cooperate fully with separate contractors so work on those contracts may be carried out smoothly, without interfering with or delaying work under this Contract or other contracts. Coordinate the Work of this Contract with work performed under separate contracts.
- B. Additional Restorative Work: Owner may award separate contract(s) for the following construction operations at Project site. Those operations are scheduled to be completed after work under this Contract begins.
 - 1. Temporary restoration of site excavations.
- C. Concurrent Work: Owner will award separate contract(s) for the following construction operations at or near the individual Project sites. Those operations may be conducted simultaneously with work under this Contract.
 - 1. Site restoration.
- D. Subsequent Work: Owner will award separate contract(s) for the following additional work to be performed at site following Substantial Completion. Completion of that work will depend on successful completion of preparatory work under this Contract.
 - 1. Site restoration.

1.6 OWNER-FURNISHED PRODUCTS:

- A. Owner will furnish products indicated. The Work includes receiving, unloading, handling, storing, protecting, and installing, testing and commissioning Owner-furnished products.
- B. Owner-Furnished Products:
 - 1. ¾" Type K copper residential water service piping.

2. Exploratory excavations, using traditional underground excavation methods consistent with ANSI/AWWA (American National Standards Institute / American Water Works Association) C810-17, Sec. 4.1.1.5 (see Appendix D), to identify the composition of service lines through locating at 5 ft. either side of the curb box.
3. Replacement of identified lead and galvanized residential water service lines with new copper piping. Work will be classified as follows:
 - a. Complete Replacement: Replacement of the entire water service line including, as necessary, corporation stop, curb stop and curb box from the public water main to the residential water meter.
 - b. Partial Replacement, Public Side: Replacement of the water service line including, as necessary, corporation stop, curb stop and curb box from the public water main to the curb box.
 - c. Partial Replacement, Private Side: Replacement of the water service line including, as necessary, curb stop and curb box from the curb box to the residential water meter.
4. Replacement of water mains, valves and fittings as directed.
5. Removal and disposal of excavated spoils material at an approved location. Contractor is responsible for the disposal of any lead or other contaminated material at an approved disposal facility.
6. Temporary site restoration.
7. Traffic controls and site safety.
8. Miscellaneous and ancillary work such as:
 - a. Sanitary lateral inspection and repair, if necessary.
 - b. Cut and cap of service lines for abandoned houses with active accounts.
 - c. Tree removal.

B. Type of Contract:

1. Project will likely be constructed under coordinated, concurrent multiple contracts.

1.4 PHASED CONSTRUCTION:

- A. The Work shall be conducted in multiple phases. Contractors will be assigned a specific work area and an allotted number of houses to complete service line replacements. Additional service line replacements will be assigned to respective Contractors as the work is completed. These additional assignments will be made according the Contractor's progress, quality and acceptance of the work. Additional assignments will be made once a contractor reaches 60% acceptable completion of previously assigned

SECTION 01 11 00
SUMMARY OF WORK

PART 1 - GENERAL

1.1 SUMMARY:

A. Section Includes:

1. Project information.
2. Work covered by Contract Documents.
3. Phased construction.
4. Work under separate contracts.
5. Owner-furnished products.
6. Access to site.
7. Coordination with occupants.
8. Work restrictions.

B. Related Requirements:

1. Division 01 Section "Temporary Facilities" for limitations and procedures governing temporary use of Owner's facilities.

1.2 PROJECT INFORMATION:

A. Engineer / Construction Manager (CM): TBD

1. Construction Manager (Engineer) has been engaged for this Project to serve as an advisor to Owner and to provide assistance in administering the Contract for construction between Owner and each Contractor, according to a separate contract between Owner and Engineer.

1.3 WORK COVERED BY CONTRACT DOCUMENTS:

A. The Work of Project is defined by the Contract Documents and consists of the following:

1. After initial attempts contact by the Engineer / Construction Manager/CM, contractor may be required to contact homeowners and/or residents to schedule and secure permission to conduct excavations and replacements. Contact(s), attempted by contract(s), and results shall be documented and reported to the CM/Engineer on a timely basis.

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- B. For any engineering costs and expenses beyond the regular eight-hour day and for any time work on Saturday, Sunday, or holidays, the charges for such personnel will be one and one-half times the rate established above.

END OF SECTION

SC-17.06

Delete paragraph 17.06 in its entirety and replace with the following:

17.6 Headings:

- A. The headings or titles of any article, paragraph, subparagraph, section, subsection, or part of the Contract Documents shall not be deemed to limit or restrict the article, paragraph, section, or part.

SC-17.07

Legal Address of Contractor:

Add new paragraph immediately after paragraph 17.06 of the General Conditions as follows:

- A. Contractor's business address and his office at or near the site of the Work are both hereby designated as places to which communications shall be delivered. The depositing of any letter, notice, or other communication in a postpaid wrapper directed to the Contractor's business address in a post office box regularly maintained by the Post Office Department or the delivery at either designated address of any letter, notice, or other communication by mail or otherwise shall be deemed sufficient service thereof upon Contractor, and the date of such service shall be the date of receipt. The first-named address may be changed at any time by an instrument in writing, executed and acknowledged by Contractor and delivered to Engineer. Service of any notice, letter, or other communication upon the Contractor personally shall likewise be deemed sufficient service.

SC-17.08

Engineering and Inspection Costs and Expenses:

Add a new paragraph immediately after paragraph 17.07 of the General Conditions which is to read as follows:

- A. The Contractor shall be responsible and liable for all engineering and inspection costs and expenses incurred by the Owner caused by, or related in any way to, the failure of the Contractor to perform its services in the time and manner set forth in the Agreement, the General Conditions and the Supplemental Conditions. The Owner may charge to the Contractor, and may deduct from the periodical payments and the final payment for the Contractor's work, the full amount of such engineering and inspection costs and expenses including Owner's and Engineer's costs.
 1. The Engineer's charges will be based on the Engineer's actual labor and expenses at the same rate the Owner is charged.

- A. All Claims or counterclaims, disputes, or other matters in question between Owner and Contractor arising out of or relating to the Contract Documents or the breach thereof (except for Claims which have been waived by the making or acceptance of final payment as provided by Paragraph 14.09) including but not limited to those not resolved under the provisions of Paragraphs SC-16.01A and 16.01.B will be decided by arbitration in accordance with the laws of the State of Michigan, subject to the conditions and limitations of this Paragraph SC-16.02. This agreement to arbitrate and any other agreement or consent to arbitrate entered into will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitrator or arbitration provider, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the 30-day period specified in Paragraph SC-16.01.C, and in all other cases within a reasonable time after the Claim or counterclaim, dispute, or other matter in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such Claim or other dispute or matter in question would be barred by the applicable statute of limitations.
- C. No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder, or in any other manner any other individual or entity including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:
 - 1. The inclusion of such other individual or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration.
 - 2. Such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings.
- D. The award rendered by the arbitrator(s) shall be consistent with the agreement of the parties, in writing, and include: (i) a concise breakdown of the award; and (ii) a written explanation of the award specifically citing the Contract Document provisions deemed applicable and relied on in making the award.
- E. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Controlling Law relating to vacating or modifying an arbitral award.
- F. The fees and expenses of the arbitrators and any arbitration service shall be shared equally by Owner and Contractor.
- G. These arbitration provisions shall survive the expiration or termination of this agreement.

ARTICLE 17. MISCELLANEOUS

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

SC-15.04

Contractor May Stop Work or Terminate:

Amend Paragraph 15.04.A. by striking out the words "30 days" in two places and inserting the words "60 days" in their places, and by striking out the words "seven days" and inserting the words "10 days" in their place.

Amend Paragraph 15.04.B. by striking out the words "30 days" in two places and inserting the words "60 days" in their places, and by striking out the words "seven days" and inserting the words "10 days" in their place.

ARTICLE 16. DISPUTE RESOLUTION

SC-16.01

Methods and Procedures:

Add a new sentence at the end of paragraph 16.01A of the General Conditions which is to read as follows:

Contractor shall carry on the Work and maintain the progress schedule during the dispute resolution proceedings unless otherwise agreed in writing by Owner and Contractor.

SC-16.01

Methods and Procedures:

Delete Paragraph 16.01.C in its entirety and insert the following in its place:

- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C. or a denial pursuant to Paragraphs 10.05.C.3. or 10.05.D. shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 - 1. Elects in writing to demand arbitration of the Claim, pursuant to Paragraph SC-16.02.
 - 2. Agrees with the other party to submit the Claim to another dispute resolution process.

Add the following new paragraphs immediately after Paragraph 16.01.:

SC-16.02

Arbitration:

Progress Payments:

Add the following language at the end of Paragraph 14.02.A.2.:

Owner may at any time require Contractor to furnish lien waivers for labor and materials covered by specified Applications for Payment.

SC-14.02

Payment Becomes Due:

Amend Paragraph 14.02.C.1. by striking out the words “Ten days” and inserting the words “Twenty days” in their place.

SC-14.04

Substantial Completion:

Add the following new paragraphs immediately after Paragraph 14.04.A.:

1. Contractor’s request for issuance of a Certificate of Substantial Completion shall include schedules, guarantees, maintenance and operations instructions, Bonds, certificates or other evidence of insurance required by Paragraph 5.04.B.6, certificates of inspection, affidavit of wage rate compliance, marked-up record documents (as provided in Paragraph GC 6.12) and other documents.

SC-14.07

Final Payment:

Amend the first sentence of Paragraph 14.07.A.1. by striking out the words “and has delivered in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked up record documents (as provided in Paragraph 6.12), and other documents,”

Amend Paragraph 14.07.A.2.a. by striking out the words “, including but not limited to evidence of insurance required by Paragraph 5.04.B.6.”

SC-14.07

Final Payment:

Add the following new paragraph after paragraph 14.07A.3 of the General Conditions.

4. The amount of retainage with respect to final payment will be as stipulated in the Agreement.

SC-12.01

Change of Contract Price:

Delete the semicolon at the end of Paragraph 12.01.C.2.c., and add the following language:

“, provided, however, that on any subcontracted work the total maximum fee to be paid by Owner under this subparagraph shall be no greater than 27 percent of the cost incurred by the Subcontractor who actually performed the work”;

SC-12.02

Change of Contract Times:

Add the following new paragraph immediately after Paragraph 12.02.B.:

- C. Time extensions provided under Paragraph 12.03 of the General Conditions will only be allowed for controlling items of Work (critical path).

SC-12.03

Delays:

Delete Paragraph 12.03.B. in its entirety and insert the following in its place:

- B. If Owner, Engineer, or other contractors or utility owners performing other work for the Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work with the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.02.B.

ARTICLE 14. PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02

Progress Payments:

Amend the first sentence of Paragraph 14.02.A.1. by striking out the words “20 days” and inserting the words “30 days” in their place. Also strike out the phrase “(but not more often than once a month)”

SC-14.02

1. By submission of a Claim Contractor certifies that the claim is made in good faith, that the supporting data are accurate and complete to the best of Contractor's knowledge and belief, and that the amount or time requested accurately reflects the Contract adjustment for which Contractor believes Owner is liable.

SC-10.03

Execution of Change Orders:

Add the following new paragraph immediately after Paragraph 10.03.A.3.:

4. Change Orders will be prepared on the form included in the Project Forms of the Project Manual.

SC-10.05

Claims:

Amend Paragraph 10.05.B. by deleting the words "30 days" in the first sentence and inserting the words "10 days" in their place, and deleting the words "60 days" in the third sentence and inserting the words "30 days" in their place.

Amend the sixth sentence of Paragraph 10.05.B. by deleting the words "believes it."

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

SC-11.01

Cost of the Work:

In the second sentence of paragraph 11.01A.1 delete the word "superintendents".

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

SC-12.01

Change in Contract Price

Delete Paragraph 12.01.B.2. in its entirety and insert the following in its place:

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

5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawings or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or part.

SC-9.07

Determinations for Unit Price Work:

Delete the last sentence of Paragraph 9.07.A. in its entirety and insert the following in its place:

“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 not subject to appeal.”

SC-9.10

Compliance with Safety Program:

Add the following new paragraph immediately after Paragraph 9.10.A.:

- B. In the event Engineer determines that Contractor’s safety plans, programs, and procedures do not provide adequate protection for Engineer, Engineer may direct its employees to leave the Project Site or implement additional safeguards for Engineer’s protection. If taken, these actions will be in furtherance of Engineer’s responsibility to its own employees only, and Engineer will not assume any responsibility for protection of any other persons affected by the Work. In the event Engineer observes situations which appear to have potential for immediate and serious injury to persons, Engineer may warn the persons who appear to be affected by such situations. Such warnings, if issued, shall be given based on general humanitarian concerns, and Engineer will not, by the issuance of any such warning, assume any responsibility to issue future warnings or any general responsibility for protection of persons affected by the Work.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

SC-10.01

Authorized Changes in the Work:

Add the following new subparagraph immediately after Paragraph 10.01.B.:

11. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
12. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the times actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
13. *Completion:*
 - a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of list of items to be completed or corrected.
 - b. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.
 - d. Coordinate efforts required to prepare record drawings showing those changes made during construction, based on the marked-up prints, drawings and other data furnished by Contractor to Engineer and which Engineer considers significant.

C. The RPR shall not:

1. Authorize any deviations from the Contract Documents or substitution of materials or equipment (including "or equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

7. *Review of Work and Rejection of Defective Work:*

- a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
- b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

8. *Inspections, Tests, and System Startups:*

- a. Verify that tests, equipment, and systems startups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- b. Observe, record, and report to Engineer appropriate details relative to the test procedures and system startups.

9. *Records:*

- a. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- b. Maintain records for use in preparing Project documentation.

10. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.

general shall be with Engineer and Contractor. RPR'S dealings with Subcontractors shall be through or with the full knowledge and approval of Contractor. The RPR shall:

1. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
2. *Conferences and Meetings:*
 - a. Conduct a preconstruction conference with Owner, Contractor(s), Utilities, and other appropriate parties affected by the Project.
 - b. Attend meetings with Contractor, such as progress meetings, job conferences and other Project related meetings.
3. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
 - d. Direct visiting inspectors representing public or other agencies having jurisdiction over the Project to Owner or Contractor as appropriate.
4. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
5. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
6. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR'S recommendations, to Engineer. Transmit to Contractor, in writing decisions as issued by Engineer.

made by any separate contractor against Contractor, Owner, Engineer, Engineer's Consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner, Engineer, and Engineer's Consultants, harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of engineers, architects, attorneys, and other professionals, and court and arbitration costs) arising directly, indirectly, or consequentially out of any action, legal or equitable, brought by any separate contractor against Owner, Engineer, or Engineer's Consultants, to the extent based on a claim arising out of the Contractor's performance of the Work. Should a separate contractor cause damage to the Work or property of Contractor or should the performance of Work by any separate contractor at the site give rise to any other claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer or Engineer's Consultants, or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or Engineer's Consultants, on such damage or claim. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor and Owner and Contractor are unable to agree to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Engineer, and Engineer's Consultants, for any delay, disruption, interference or hindrance caused by any separate contractor. This paragraph does not prevent recovery from Owner, Engineer, or Engineer's Consultant, for activities that are their respective responsibilities.

ARTICLE 8. OWNER'S RESPONSIBILITIES

SC-8.06

Insurance:

Delete paragraph 8.06 of the General Conditions in its entirety.

ARTICLE 9. ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03

Project Representative:

Add the following new paragraphs immediately after Paragraph 9.03.A.:

- B. The Resident Project Representative (RPR) will be Engineer's employee or agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR'S actions. RPR'S dealings in matters pertaining to the Work in

Add the following new paragraphs immediately after Paragraph 7.03.:

- A. Should Contractor cause damage to the work or property of any other contractor at the Site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any other contractor against Contractor, Owner, Engineer, or the construction coordinator, then Contractor (without involving Owner, Engineer or construction coordinator) shall either (1) remedy the damage, (2) agree to compensate the other contractor for remedy of the damage, or (3) remedy the damage and attempt to settle with such other contractor by agreement, or otherwise resolve the dispute by arbitration or at law.

- B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner, Engineer, the construction coordinator and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any other contractor against Owner, Engineer, consultants, or the construction coordinator to the extent said claim is based on or arises out of Contractor's performance of the Work. Should another contractor cause damage to the Work or property of Contractor or should the performance of work by any other contractor at the Site give rise to any other Claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer, or the construction coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or the construction coordinator on account of any such damage or Claim.

- C. If Contractor is delayed at any time in performing or furnishing the Work by any act or neglect of another contractor, and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Engineer, and construction coordinator for any delay, disruption, interference, or hindrance caused by any other contractor. This paragraph does not prevent recovery from Owner, Engineer, or construction coordinator for activities that are their respective responsibilities.

SC-7.05

Damages to the Work or Property:

Add the following new paragraph at the end of Article 7 of the General Conditions:

- A. Should Contractor cause damage to the work or property of any separate contractor at the site, or should any claim arising out of Contractor's performance of the Work at the site be

Emergencies:

Add the following new paragraph immediately after Paragraph 6.16.A.:

- B. In emergencies affecting the safety or protection of persons or property or maintenance of temporary construction at the Site or adjacent thereto, and Contractor cannot be reached, Owner may act to attempt to prevent threatened damage, injury, or loss. Owner will give Contractor and Engineer prompt written notice of such action and the cost of the correction or remedy shall be charged against Contractor. A Change Order will be issued to document the change in Contract Price.

SC-6.17

Shop Drawings and Samples:

Add the following new paragraphs immediately after Paragraph 6.17.E.:

- F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.
- G. After Engineer has reviewed and approved a Shop Drawing or Sample, Contractor shall provide the material or equipment approved. Engineer will not review subsequent submittals of a different manufacturer or Supplier unless Contractor provides sufficient information to Engineer that the approved material or equipment is unavailable, time of delivery will delay the construction progress but not as a result of Contractor's failure to timely pursue the Work or to coordinate various activities properly, or Owner requests a different manufacturer or Supplier.

ARTICLE 7. OTHER WORK

SC-7.02

Coordination:

Add the following new paragraph immediately after Paragraph 7.02.B.:

- 1. Engineer will be the construction coordinator to schedule and coordinate the activities of the various Contractors at the Site, maintain liaison between the Contractors, the Engineer's design staff, and Owner.

SC-7.04

Claims Between Contractors:

associated with the Work of other contractors due to such changes in design or space requirements.

- a. Redesign and drawing revisions will be prepared by Engineer and Contractor shall reimburse Owner for charges of Engineer for redesign and drawing preparation.
- b. Reimbursement of Engineer shall be based on Engineer's direct labor costs, indirect labor costs, profit on the total labor, and any direct non-labor expenses such as travel or per diem.

SC-6.06

Concerning Subcontractor's, Suppliers, and Others:

Renumber subparagraph 6.06F to 6.06G and subparagraph 6.06G to 6.06H and add new subparagraph as follows:

- F. Owner or Engineer may furnish to any such Subcontractor, Supplier, or other person or organization, to the extent practicable, information about amounts paid to Contractor in accordance with Contractor's Applications for Payment on account of the particular Subcontractor's, Suppliers, other person's, or other organization's Work.

SC-6.10

Taxes:

Add the following new paragraphs immediately after Paragraph 6.10.A.:

1. Contractor shall investigate the statutory requirements for payment of sales taxes and if required shall include the tax in the Contract price.
2. If investigation indicates tax exempt status, Contractor(s) shall forward this information to its Suppliers in order that the sale of such materials and equipment be properly recorded as a tax-exempt sale.

SC-6.12

Record Documents:

Delete the last sentence of Paragraph 6.12.A. in its entirety and insert the following in its place:

Upon Substantial Completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

SC-6.16

ARTICLE 6. CONTRACTOR'S RESPONSIBILITIES

SC-6.03

Services, Materials, and Equipment:

Add the following new paragraph(s) immediately after Paragraph 6.03.C.:

D. Basis of Design

1. Unless otherwise indicated, design of this Project is based upon the material or Supplier's equipment named first in the list of manufacturers in a Specification section. Engineer has performed an evaluation of other listed manufacturers for compliance with the requirements of the Contract Documents.
2. When other manufacturers are listed, Contractor may be required to make modifications or adjustments, at Contractor's expense, to coordinate the installation of the furnished equipment with associated elements of Work, such as piping and electrical connections, or support and mounting provisions.

SC-6.05

Substitutes and "Or Equals":

Add the following language at the end of Paragraph 6.05.D.:

. . . in the form of a Special Performance Guarantee and Surety Bond included in the Project Forms of the Project Manual.

SC-6.05

Substitutes and "Or Equals":

Delete Paragraph 6.05.E. in its entirety.

SC-6.05

Substitutes and "Or Equals":

Add the following new paragraphs immediately after Paragraph 6.05.F.:

1. When a substitute item of material or equipment is proposed by Contractor and accepted by Engineer, and the substitution will require a change in any of the Contract Documents to adapt the design to the proposed substitute, Contractor shall notify Engineer of the changes and be responsible for the costs involved to revise the design and to make modifications or changes to the construction, including the costs

SC-5.06

Property Insurance:

Delete Paragraph 5.06.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. The insurance shall:
1. Include the interests of Owner, Contractor, Subcontractors, Engineer, individual property owners, and any other individuals or entities identified herein, 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, false work, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup;
 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 to whom a certificate of insurance has been issued;
 8. comply with the requirements of Paragraph 5.06.C. of the General Conditions.

- f. Excess or Umbrella Liability: \$1,000,000 (general aggregate)
 \$1,000,000 (each occurrence)

- 3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions. Michigan “no-fault” coverage, and residual automobile liability, comprehensive form, covering, owned, hired, and non-owned automobiles.
 - a. Bodily Injury: \$500,000 (each person)
 \$1,000,000 (each accident)

 - b. Property Damage: \$500,000 (each accident)

- 4. The Contractual Liability coverage required by Paragraph 5.04.B.3 of the General Conditions shall provide coverage for not less than the following amounts:
 - a. Bodily Injury: \$1,000,000 (each accident)
 \$2,000,000 (annual aggregate)

 - b. Property Damage: \$500,000 (each accident)
 \$1,000,000 (annual aggregate)

- 5. In addition to those identified and entities specified in the General Conditions include as additional insured the following:
 - a. City of Flint, Michigan

 - b. City of Flint, Department of Purchases and Supplies

 - c. The FAST Start programs project management contractor (TBD)

Amend the subparagraph by deleting the words “two years” and inserting the words “three years”.

SC-5.05

Owner’s Liability Insurance:

Delete paragraph 5.05 of the General Conditions in its entirety and insert the following in its place:

- A. Contractor shall purchase and maintain a separate Owner's Protective Liability policy, issued to Owner at the expense of Contractor, including Owner and Engineer as named insured. This insurance shall provide coverage for not less than the following amounts:
 - 1. Bodily Injury: \$1,000,000 (each occurrence)

 - 2. Property Damage: \$500,000 (each occurrence)
 \$1,000,000 (annual aggregate)

Add the following language at the end of Paragraph 5.02.A.:

Insurance companies shall have a VI or better rating by Best's Insurance Guide Rating.

SC-5.04

Contractor's Insurance:

Add the following new paragraph immediately after Paragraph 5.04.B.:

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverage under Paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions. Statutory coverage or proof acceptable to the City of approval as a self-insurer by the State of Michigan.

- a. Workers Compensation: Statutory
- b. Applicable Federal: Statutory
- c. Employer's Liability: \$100,000 (each accident)
\$100,000 disease (each employee)
- d. Disease: \$500,000 (policy limit)

2. Contractor's General Liability under Paragraphs 5.04.A.3 through 5.04.A.6 of the General Conditions which shall include completed operations and product liability coverage's and eliminate the exclusion with respect to property under the care, custody, and control of Contractor or provide equivalent coverage under Builders Risk:

- a. General Aggregate: \$1,000,000 (each occurrence)
\$2,000,000 (general aggregate)
- b. Products-Completed
Operations Aggregate: \$2,000,000
- c. Personal and Advertising Injury: \$1,000,000
- d. Bodily Injury and Property Damage: \$500,000 (each occurrence)
- e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.

SC-4.04

Underground Facilities:

Delete the following words from line 5 of paragraph 4.04B.2 of the General Conditions:

“or not shown or indicated with reasonable accuracy”

SC-4.05

Reference Points:

Delete paragraph 4.05A in entirety and replace with the following::

A. No engineering surveys or reference points are provided for this contract.

SC-4.06

Hazardous Environmental Conditions at Site:

Delete Paragraphs 4.06.A. and 4.06.B. in their entirety and insert the following in their place:

A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

B. Not used.

ARTICLE 5. BONDS AND INSURANCE

SC-5.01

Performance, Payment and Other Bonds:

Add the following text after the phrase “Contract Price” in the second line of paragraph 5.01.A:

for the work assigned

Add the following language at the end of Paragraph 5.01.C:

In addition, no further progress payments under the Agreement will be made by Owner until Contractor complies with the provisions of this paragraph.

SC-5.02

Licensed Sureties and Insurers:

Amend the first sentence of Paragraph 2.05.A.3. by inserting the words “except for Unit Price Work” at the beginning of the sentence.

ARTICLE 3. CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.01

Intent:

Add a new paragraph immediately after paragraph 3.01A of the General Conditions which is to read as follows:

1. Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.
2. Sections of Division 1 - General Requirements govern the execution of the work of all sections of the specifications.

SC-3.03

Reporting and Resolving Discrepancies

Add the following language as Paragraph 3.03.A.4.:

4. A request for written interpretation or clarification of the Contract Documents shall be submitted on the Contract Clarification/Interpretation Request form provided in the Project Forms section.

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

SC-4.02

Subsurface and Physical Conditions:

Delete paragraph 4.02A of the General Conditions in its entirety and insert the following in its place:

- A. Reports and Drawings: No supplemental geotechnical or subsurface investigation reports are available.

Delete Subparagraph 1.01.A.34 in its entirety and insert the following in its place:

34. *Project Manual* - The Project Manual is the volume assembled for the Work which includes the Bid Documents, Contract Documents, and Specifications.

ARTICLE 2. PRELIMINARY MATTERS

SC-2.01

Copies of Documents:

Delete paragraph 2.01B of the General Conditions in its entirety and insert the following in its place:

- B. Before any work at the site is started, Contractor shall deliver to Owner, with a copy to Engineer, certificates of insurance (and other evidence of insurance requested by Owner) which Contractor is required to purchase and maintain in accordance with the requirements of Article 5.
 1. Contractor shall include and identify on the certificate of insurance, indemnification as required by Article 6.20.
 2. Engineer shall furnish to the Contractor, the form for Certificate of Insurance to be completed.

SC-2.02

Copies of Documents:

Add the following to the end of the first sentence in Paragraph 2.02.A.:

and one set in electronic format.

SC-2.03

Commencement of Contract Times; Notice to Proceed:

Delete the last sentence of Paragraph 2.03.A. in its entirety and insert the following in its place:

In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the 30th day after the Effective Date of the Agreement, whichever date is earlier.

SC-2.05

Before Starting Construction:

SECTION 00 73 02

SUPPLEMENTARY CONDITIONS

ARTICLE 1. DEFINITIONS

SC-1.01

Defined Terms:

Delete Subparagraph 1.01.A.8 in its entirety and insert the following in its place:

8. *Bidding Requirements* - The Official Notice, Notice of Public Hearing, Advertisement or Invitation to Bid; Instructions to Bidders; Bid security of acceptable form, if any; and the Bid Form with any supplements.

SC-1.01

Defined Terms:

Insert the following language before the word "Agreement" in the first sentence of the definition 1.01A.12 entitled "Contract Documents" in the General Conditions:

Invitation to Bid, Instructions to Bidders, and

SC-1.01

Defined Terms:

Add the following to the end of Paragraph 1.01A.19:

Wherever in the Contract Documents the name Boyle, CTE, Earth Tech, Metcalf & Eddy, or TCB appears, it shall also mean to include AECOM.

SC-1.01

Defined Terms:

Add the following new paragraph immediately after paragraph 1.01.A.31:

32. *Products* - Means materials and equipment that Contractor furnishes and provides, other than labor and services.

SC-1.01

Defined Terms:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.2 *Computation of Times*

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

17.3 *Cumulative Remedies*

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

17.4 *Survival of Obligations*

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

17.5 *Controlling Law*

- A. This Contract is to be governed by Michigan law and jurisdiction shall be proper in the courts of Genesee County, Michigan, and the Eastern District of Michigan.

17.6 *Headings*

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

to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

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

ARTICLE 16 – DISPUTE RESOLUTION

16.1 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.1 *Giving Notice*

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

so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.3 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or any other economic or non-economic loss arising out of or resulting from such termination.

15.4 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.1 *Owner May Suspend Work*

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

15.2 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when

documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

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

14.8 Final Completion Delayed

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

14.9 Waiver of Claims

- A. The making and acceptance of final payment will constitute:
 1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

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

14.6 *Final Inspection*

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

14.7 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying

final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.5 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.3 *Contractor's Warranty of Title*

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

14.4 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before

involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

- b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

1. Within 30-days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

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

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

B. Review of Applications:

1. Engineer will, within 7 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or

13.9 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 *Schedule of Values*

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

14.2 *Progress Payments*

A. *Applications for Payments:*

1. By the 7th day of each calendar month, Contractor shall submit to Engineer for review an

1. repair such defective land or areas; or
 2. correct such defective Work; or
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.8 *Acceptance of Defective Work*

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

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

13.5 *Owner May Stop the Work*

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

13.6 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.7 *Correction Period*

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

13.3 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.4 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.1 *Notice of Defects*

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

13.2 *Access to Work*

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

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

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.2 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.3 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or

the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.1 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

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

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.2 Allowances

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

11.3 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

said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of

shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
1. deny the Claim in whole or in part;
 2. approve the Claim; or
 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.1 *Cost of the Work*

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

10.2 *Unauthorized Changes in the Work*

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

10.3 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.4 *Notification to Surety*

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

10.5 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data

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

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.1 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

9.6 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.7 *Determinations for Unit Price Work*

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

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

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.9 *Limitations on Engineer's Authority and Responsibilities*

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

continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

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

9.3 *Project Representative*

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

9.4 *Authorized Variations in Work*

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

9.5 *Rejecting Defective Work*

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

8.7 *Change Orders*

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

8.8 *Inspections, Tests, and Approvals*

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

8.9 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.1 *Owner's Representative*

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

9.2 *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

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

7.3 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.1 *Communications to Contractor*

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

8.2 *Replacement of Engineer*

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

8.3 *Furnish Data*

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

8.4 *Pay When Due*

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

8.5 *Lands and Easements; Reports and Tests*

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

8.6 *Insurance*

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

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.1 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
1. written notice thereof will be given to Contractor prior to starting any such other work; and
 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.2 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 3. the extent of such authority and responsibilities will be provided.

- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

6.19 *Contractor's General Warranty and Guarantee*

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

6.20 *Indemnification*

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

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

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

required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

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

2. *Samples:*

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

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

C. *Submittal Procedures:*

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

- a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
- b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
- c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written and verbal notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is

by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and

6.9 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought

Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.7 *Patent Fees and Royalties*

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

6.8 *Permits*

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

required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner,

- c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
- 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.6 Concerning Subcontractors, Suppliers, and Others

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

- 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
- b. Contractor certifies that, if approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.4 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.5 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
 - 1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.1 *Supervision and Superintendence*

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

6.2 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner’s written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.3 *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.

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.8 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

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

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

members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.7 *Waiver of Rights*

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

5.5 *Owner's Liability Insurance*

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

5.6 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or 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 (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors,

- a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

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

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.3 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.4 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.1 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.2 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also

- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

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

4.5 *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.

4.6 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.4 *Underground Facilities*

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

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

4.3 *Differing Subsurface or Physical Conditions*

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

1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

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

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

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor’s cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and

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

4.1 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.5 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

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

3.6 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

3.3 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

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

3.4 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.1 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.2 *Reference Standards*

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

2.4 *Starting the Work*

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

2.5 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 14 calendar days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.6 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.7 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on

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

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

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

ARTICLE 2 – PRELIMINARY MATTERS

2.1 *Delivery of Bonds and Evidence of Insurance*

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.2 *Copies of Documents*

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.3 *Commencement of Contract Times; Notice to Proceed*

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

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

1.2 Terminology

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.