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Addendum No. 1

To: All Bidders

Project: 2024-2 Community Crossings Project (City of Hammond)

Date: January 29, 2025

This Addendum, issued prior to bidding, alters, amends, corrects, or clarifies the proposal documents to the extent stated herein and does thereby become a part of the proposal documents and will become a part of the Contract Documents of the successful bidder.

ITEMS INCLUDED IN THIS ADDENDUM

1. Changes to the Contract Documents
2. Response to Questions

Changes to Contract Documents

1. Revise Contract Documents Page 2 (Table of Contents)
2. Part 2 – Instruction to Bidders
 - a. Remove pages 7 to 19 of the Contract Documents
 - i. Replace with Section 00 21 13 (Instruction to Bidders)
 1. Renumbered B – 1 to B – 12
3. Part 4 – Bid Documents
 - a. Revise Part 4 Table of Contents
 - b. Itemized Proposal (Page P-7 to P-8)
 - i. Revised Item No. 31, SIGNAL CABLE, ROADWAY LOOP, COPPER, 1C/14 GAUGE to 868 LFT
 - ii. Revised Item No. 32, SIGNAL DETECTOR HOUSING to 7 EACH
 - iii. Revised Item No. 33, SAW CUT FOR ROADWAY LOOP DETECTOR AND SEALANT to 292 LFT
 - iv. Revised Item No. 34, LINE, THERMOPLASTIC, DOTTED, WHITE, 6 IN. to 38 LFT
 - v. Revised Item No. 35, LINE, THERMOPLASTIC, SOLID, WHITE, 6 IN. to 4,192 LFT
 - vi. Revised Item No. 36, LINE, THERMOPLASTIC, SOLID, YELLOW, 6 IN. to 14,700 LFT
 - vii. Revised Item No. 37, TRANSVERSE MARKING, THERMOPLASTIC, CROSS HATCH, YELLOW, 12 IN. to 504 LFT
 - viii. Revised Item No. 38, TRANSVERSE MARKING, STOP LINE, WHITE, 24 IN. to 1,116 LFT
 - ix. Revised Item No. 39, TRANSVERSE MARKING, THERMOPLASTIC, CROSSWALK LINE, WHITE, 6 IN. to 3,580 LFT

- x. Revised Item No. 40, PAVEMENT MESSAGE MARKING, THERMOPLASTIC, LANE INDICIATION ARROW to 27 EACH
 - xi. Revised Item No. 41, PAVEMENT MESSAGE MARKING, THERMOPLASTIC, "ONLY" to 20 EACH
 - xii. Revised Item No. 42, PAVEMENT MESSAGE MARKING, THERMOPLASTIC, R X R to 4 EACH
 - xiii. Revised Item No. 43, LINE, THERMOPLASTIC, BROKEN, WHITE, 6 IN. to 2,804 LFT
- c. Add List of Proposed Subcontractors, List of Proposed Suppliers, and List of Hammond Businesses Contacted as page numbers P-14 to P-19
- 4. Add Part 6 - Conditions of the Contract (CC-1 to CC-119)
 - 5. Add Part 7 - General Requirements (GR-1 to GR-54)

Response to Questions

- 1. Q: Should Common Excavation of the existing stone be part of item #8?
A: Yes.
- 2. Q: Should milling/ common excavation of existing pavement be part of item #9?
A: Yes.
- 3. Q: Will there be a MOT plan sheet?
A: No. All Maintenance of Traffic is the responsibility of the Contractor.

CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR THE
CITY OF HAMMOND, INDIANA
2024-2 COMMUNITY CROSSINGS PROJECT

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SECTION 00 21 13

INSTRUCTIONS TO BIDDERS

ARTICLE 1 DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:
- A. Successful Bidder - The lowest, responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided) makes an award.

ARTICLE 2 COPIES OF BIDDING DOCUMENTS

- 2.01 Refer to the Official Notice to Bidders for information on how and where copies of the Bidding Documents may be examined or obtained.
- 2.02 The Project Manual is compiled as an electronic PDF file. The specifications are divided into sections. Such assembly and divisions does not relieve the bidder from any work shown or specified in any part of the drawings or Project Manual. Bidders should also notice all cases where it is specified that certain work or materials, or both, is to be omitted by them, and is to be furnished by others or incorporated therein. It is understood that the various bidders have included such work in their bids even though the same is not specifically mentioned within various sections of the specifications upon which they are bidders.
- 2.03 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.04 OWNER and ENGINEER in making copies of Bidding Documents available do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

ARTICLE 3 QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of OWNER's request, Bidder shall submit written evidence such as additional financial data, previous experience, present commitments and other such data as may be requested.
- 3.02 The object of the request for the additional information of BIDDERS is not to discourage bidding or make it difficult for qualified BIDDERS to file Bids. Neither is it intended to discourage beginning contractors. It is intended to make it possible for OWNER to have more exact information on financial ability, equipment, and experience in order to reduce the hazards involved in awarding contracts to parties who may not have all of the capabilities needed to perform the Work as specified.
- 3.03 OWNER's decision as to qualification of the Bidders shall be final.

- 3.04 In order for a Bidder to submit as prime bid on this project, the Bidder must have completed a project of comparable size, type and complexity and must have been in business as their current licensed / incorporated entity for at least five (5) years.

Bidders shall submit a statement with their bid acknowledging this and shall so list those projects in that statement.

- 3.05 The Bidder is required to maintain on a continual basis at least one (1) major trade (i.e., carpentry, masonry, etc.) with their own employees (in house). The Bidder may add additional employees, as they need. The intention of this requirement is to attract bidders that are capable and experienced contractors adequate to manage, coordinate and complete the work in accordance with typically accepted and required practices of general contracting and the Bid Documents.

- 3.06 All Bidders must be properly licensed in the City of Hammond at the time the bids are received. Contractors may contact the Hammond Building Inspections Department to inquire on General Contractor and Sub-contractor licensing and requirements, at 219.853.6316 or the Hammond website, www.gohammond.com Inspections Department for applications.

Please note that the Hammond Contracting Board only meets once per month, at the first Monday of every month at 6:00 pm in the Inspections Department Conference Room. The deadline for submitting an application and required information for a Hammond license is one week prior to the meeting. For this bid, the next deadline to submit an application is Monday, March 25, 2024 and the corresponding meeting date is Monday, April 1, 2024.

ARTICLE 4 EXAMINATION OF CONTRACT DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 Subsurface and Physical Conditions

A. The Supplementary Conditions Identify:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.
2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in Paragraph 4.01.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.02 of the General Conditions has been identified and established in Paragraph SC-4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any “technical data” or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.02 Underground Facilities

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

4.03 Hazardous Environmental Condition

- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in Paragraph 4.03.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.06 of the General Conditions has been identified and established in Paragraph SC-4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any “technical data” or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

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

4.05 On request, OWNER will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

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

- A. Examine and carefully read and examine the complete set of the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents, to acquaint themselves with any and all requirements therein and submit Request for Information (RFI) to clarify all issues that are not understood by the Bidder;
- 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, or performance of the Work;
- D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground

Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions;

- E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
- F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of 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.

4.07 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 PREBID CONFERENCE

A prebid conference will be held at the time, date and location as published in the Notice to Bidders. Representatives of OWNER and ENGINEER will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. ENGINEER will transmit to all prospective Bidders of record such Addenda as ENGINEER considers necessary in response to questions arising at the conference. Oral statements made during the prebid conference are not to be relied upon and will not be binding or legally effective.

ARTICLE 6 SITE AND OTHER AREAS

The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR. 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.

ARTICLE 7 INTERPRETATIONS AND ADDENDA

7.01 No interpretation of the meaning of the Plans, Drawings or other Contract Documents will be made to any Bidder orally. All questions about the meaning or intent of the Bidding Documents are to be directed to ENGINEER in writing, addressed to: Dean Button, PE, City Engineer, City of Hammond, Indiana, 5925 Calumet Avenue, Hammond, IN 46320, buttond@gohammond.com, 219-853-6336. Interpretations or clarifications considered necessary by ENGINEER in response to such questions will be issued by Addenda which, if issued, will be sent or delivered to all parties recorded by ENGINEER as having received the Bidding Documents, not later than 5 days prior to the date fixed for the Bid opening. Questions received less than seven days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

If requested, a copy of an Addendum will be given to a prospective Bidder's representative at the office of the ENGINEER and receipted for by said Bidder's representative. Failure of any Bidder to receive any addenda does not relieve said Bidder from any obligation under the Bid as submitted. All addenda issued become part of the Contract Documents.

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

ARTICLE 8 BID SECURITY

8.01 Each Bid must be accompanied by Bid Security made payable to OWNER in an amount of five percent of Bidder's maximum Bid price and in the form of a certified or bank cashier's check or a Bid Bond, on the form attached, issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within fifteen days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited. 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 the seventh day after the Effective Date of the Agreement or the 91st day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within thirty (30) days after the Bid opening.

ARTICLE 9 CONTRACT TIMES / TIME OF COMPLETION

9.01 The number of days within which, or the dates by which, the Work is to be (a) ready for Partial Utilization, (b) Substantially Completed and (c) also completed and ready for final payment will be set forth in the Agreement. The work shall be commenced at the time stated in the Notice to Proceed to the Contractor or as stated in the Agreement.

ARTICLE 10 LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages, if any, will be set forth in the Agreement. Failure to completely finish the whole of the specified work by the Final Completion Date as stated in Article 9, including extensions granted subject to the provisions of Article 8 of the General Conditions of the Contract for Construction, shall entitle the OWNER to deduct from the moneys due the Contractor as "Liquidated Damages" and not as a penalty, the sum of \$250 for each calendar day of delay in completion of work.

ARTICLE 11 SUBSTITUTE AND "OR-EQUAL" ITEMS

10.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents. Whenever it is indicated 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. The procedure for submission of any such application by CONTRACTOR and consideration by ENGINEER is set forth in the General Conditions and may be supplemented in the General Requirements.

ARTICLE 12 SUBCONTRACTORS, SUPPLIERS, AND OTHERS

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to OWNER in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within forty eight (48) hours after Bid opening, submit to OWNER a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by OWNER. If OWNER or ENGINEER, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, OWNER may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute and the OWNER will pay the difference in price provided a substitute can be agreed upon.

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

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

ARTICLE 13 PREPARATION OF BID

13.01 The Bid Form is bound with the Bidding Documents and may be removed to comply with the bid submittal requirements.

13.02 All blanks on the Bid Form shall be completed by type or printing in black ink and the Bid signed. A Bid price shall be indicated for each Bid item listed therein.

13.03 Authority to Sign

- A. 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 must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 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 below the signature.
- C. 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 must be shown below the signature.
- D. A bid by an individual shall show the Bidder's name and official address.
- E. A bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The official address of the joint venture must be shown below the signature.

13.04 Type or print all names in black ink below the signatures.

13.05 Acknowledge receipt of all Addenda (the numbers of which must be filled in) on the Bid Proposal.

13.06 Show the address, telephone and fax numbers, and, if available, email address for communications regarding the Bid.

13.07 All Bidders are required to be pre-qualified under the Responsible Bidder Practices Ordinance (See Section 00 73 55)

ARTICLE 14 BID SUBMISSION REQUIREMENTS

14.01 The following Bid Package Documents must be submitted in accordance with the Engineer's bid documents and the Notice to Bidders.

- A. Bid Proposal fully executed, signed and dated. Signator must be legally authorized by the bidder. (See Paragraph 13.03 of the Instructions to Bidders). Bidder must submit documentation proving the Signator is legally authorized to sign such as a Corporate Resolution for Bids from a Corporation. All addenda issued by the Engineer must be acknowledge on the Bid Proposal.

- B. Indiana State Form 96, fully executed with the Non-collusion Affidavit signed. Include Contractor's Project Manager and Field Superintendent names.
- C. Bid guarantee in the form of a Bid Bond from a surety company or a certified check equal to 5% of the total of all Base Bids and Alternative Bids proposed by Bidder.
- D. Financial Statement as prescribed by the Indiana State Board of Accounts.
- E. List of Hammond Businesses (sub-contractors and suppliers) that were contacted (Section 00 43 38). Refer to Appendix, Exhibit A for a list of possible Hammond businesses that may be contacted. Submittal of a blank form will be considered as not in compliance with this requirement.
- F. Qualification Statement per Specification Section 00 21 13, Article 3.04 - Bidder's Qualifications Statement. (List of project references.)
- G. Bidder must provide a copy of their Responsible Bidder Prequalification Certificate after completing the pre-qualification submittal requirements contained in Article 13 of this Section and Section 00 73 55 of the Contract Documents.
- H. Bidder must provide a copy of their company's Affirmative Action Statement
- I. Evidence of authority to conduct business as corporation in Indiana and the City of Hammond, Indiana.

ARTICLE 15 POST BID REQUIREMENTS

- 15.01 List of Proposed Sub-contractors and Suppliers (Section 00 43 36 and 00 43 37). Contractors must submit documents within forty eight (48) hours of the bid opening.
- 15.02 All Subcontractors are required to be pre-qualified under the Responsible Bidding Practices Ordinance (See Section 00 73 55) before beginning work on the Project.

ARTICLE 16 BASIS OF BID, EVALUATION OF BIDS

16.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule, including all Add Alternates. Failure to supply a unit cost for all Add Alternates may result in the determination of a non-responsive bidder or that the bid is incomplete.
- B. The total of all estimated prices will be determined as the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any

column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

D. Basis of bid will be determined by adding the Base Bid plus the addition of selected Add Alternates for a total contract award.

16.02 The bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in paragraph 11.02 of the General Conditions.

ARTICLE 17 SUBMITTAL OF BID

17.01 A bid shall be submitted no later than the time and place indicated in the Advertisement or Notice to Bidders and shall be enclosed in an opaque sealed envelope, marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of Bidder, and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed bid shall be addressed to the Hammond Port Authority, 701 Casino Center Drive, Hammond, IN 46320, and sent by Certified Mail. Mailed Bids must be received no later than the time fixed for opening Bids.

17.02 The Bidders are also required to submit all RFI's for all portions of their and their subcontractors work for outstanding issues, clarifications, etc. that were not addressed prior to the bid. RFI's are required to be submitted to the Engineer / Architect within five (5) consecutive calendar days of the bid due date and time. The Owner is requesting this information in order to evaluate the bidders understanding of the Bid Documents, their responsiveness, level of responsibility and their complete and thorough comprehension of the Scope of Work. The intention of this requirement is also intended to encourage the bidders to thoroughly evaluate the Scope of Work and to submit during the bidding process RFI's in order for the Engineer / Architect to provide all Bidders with the level of detailed information the bidders require to submit a sound bid.

17.03 All erasures, interpolations and other physical changes in a bid should be signed or initialed by the bidder. No erasures, interpolation or other physical changes should be made by anyone in any bid after its submission.

ARTICLE 18 MODIFICATION AND WITHDRAWAL OF BID

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

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

ARTICLE 19 OPENING OF BIDS

19.01 Bids will be opened at the time and place indicated in the Advertisement or Notice to Bidders and, unless obviously non-responsive, read aloud publicly.

ARTICLE 20 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

20.01 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 21 AWARD OF CONTRACT

21.01 The OWNER intends to maximize the use of available funds for construction of the project. The OWNER and ENGINEER will evaluate the Base Bid in combination with the Add Alternates to maximize the project amenities within budgetary constraints. The OWNER's may select any and/or all Add Alternates.

21.02 OWNER reserves the right to reject any or all Bids, including, without limitation, nonconforming, non-responsive, 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 be non-responsive.

21.03 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.

21.04 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.

21.05 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.

21.06 OWNER may conduct such investigations, as OWNER deems necessary, to establish the responsibility, qualifications and financial ability of Bidders to perform the Work in accordance with the Contract Documents.

ARTICLE 22 CONTRACT SECURITY AND INSURANCE

22.01 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 must be accompanied by such Bonds

ARTICLE 23 SIGNING OF AGREEMENT

23.01 When OWNER gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement 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 with the required Bonds. Within ten days thereafter OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

ARTICLE 24 SALES AND USE TAXES

24.01 OWNER is exempt from Indiana State Sales and Use Taxes on materials and equipment to be incorporated in the Work. The OWNER will provide tax exemption number upon contract award. Said taxes shall not be included in the Contract Price. Refer to Paragraph SC-6.10 of the Supplementary Conditions for additional information.

ARTICLE 25 RETAINAGE

25.01 Provisions concerning retainage and CONTRACTORS' rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 26 STEEL PRODUCTS

26.01 Bidders shall comply with Indiana Code 5-16-8 that requires public contracts to use domestic steel products in the performance of the Work.

ARTICLE 27 TRENCH SAFETY SYSTEMS

27.01 Bidders shall comply with Indiana Code 36-1-12-20 which states that all trenches at least five (5) feet in depth require trench safety systems which shall be in compliance with Occupational Safety and Health Administration (IOSHA) regulations 29 CFR 1926, Subpart P. A copy of IOSHA regulations 29 CFR 1926, Subpart P may be obtained from the Owner.

ARTICLE 28 HAMMOND BUSINESS SOLICITATION

28.01 Contractor shall solicit bids, whenever possible, from Hammond firms or Sub-contractors and provide completed Section 00 43 38 (List of Hammond Businesses Contacted). Refer to Appendix, Exhibit A for a list of possible Sub-Contractors and Suppliers. Refer to Paragraph 14.01.F of the Instructions to Bidders for the Bid Submission Requirement.

ARTICLE 29 SAFETY REQUIREMENTS

29.01 Federal Construction and Safety Requirements (OSHA): All construction and safety procedures used on this Project must meet the Occupational Safety and Health Standards, National Consensus Standards, and Established Federal Standards including all requirements of the Williams-Steiger Occupational Safety and Health Act of 1970, Hornberge, Lee Occupational Safety and Health Act, Volume 36 Federal Register Number 105 Occupational

Safety and Health Standards and any other requirements set by the Occupational Safety and Health Administration.

29.02 Other Construction and Safety Requirements: Work on this Project must comply with the requirements of any Specifications and/or Standards listed and/or organizations referred to throughout these Contract Documents.

29.03 Standards and Industry Specifications: Comply with any material or operation specified by reference to the published Specifications of a manufacturer, society, institute, association, administration, conference, council, bureau, etc. Use the requirements of the Specification or Standard listed. Those not listed herein, if any, must be current copies at time of Award of Contract.

In case of conflicts between the referenced Specifications or Standards, the one having the more stringent requirements govern. The Contractor, if requested, must furnish an affidavit from the requirements specified. Certification does not relieve the Contractor from the responsibility of complying with any added requirements specified herein.

ARTICLE 30 SPECIAL PROVISIONS

30.01 The Project Manual and associated Special Provisions take precedence over the project plans, City of Hammond Standard Drawings, Indiana Department of Transportation (INDOT) Standard Drawings and INDOT 2010 Standard Specifications. In the event that a work element is not covered, the INDOT 2010 Standard Specifications govern. A reference made to a Section or Standard Specification shall be considered the most current INDOT Standard Specifications, unless otherwise noted.

END OF SECTION

PART 4

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City of Hammond
2024-2 Community Crossings Road Project
DES #2400976
Bid Schedule

Item	Description	Quantity	Units	Unit Cost	Total Cost
1	Construction Engineering	1	LS		
2	Mobilization and Demobilization	1	LS		
3	Clearing Right-of-Way	1	LS		
4	Maintaining Traffic	1	LS		
5	Curb and Gutter, Remove	659	LFT		
6	Sidewalk Concrete, Remove	634	SYS		
7	Detector Housing, Remove	7	EACH		
8	Compacted Aggregate, No. 53	611	CYS		
9	HMA Patching, Full Depth, Type D	1,510	TON		
10	Milling, Approach	2,534	SYS		
11	Milling, Asphalt, 2 ½ IN.	44,463	SYS		
12	Milling, Asphalt, 5 IN.	1,104	SYS		
13	HMA Surface, Type D	6,266	TON		
14	HMA Intermediate, Type D	152	TON		
15	Joint Adhesive, Surface	26,276	LFT		
16	Joint Adhesive Intermediate	883	LFT		
17	HMA Wedge and Level, Type D	995	TON		
18	Asphalt for Tack Coat	16	TON		
19	Sidewalk, Concrete	100	SYS		
20	Curb Ramp, Concrete	447	SYS		
21	Detectable Warning Surfaces	43	SYS		
22	Curb and Gutter, Concrete	659	LFT		
23	HMA for Approaches, Type D	349	TON		
24	Topsoil	23	CYS		
25	Sodding	133	SYS		
26	Casting, Manhole, Adjust to Grade	89	EACH		
27	Casting, Type 4, Furnish and Adjust to Grade	2	EACH		
28	Casting, Type 10, Furnish and Adjust to Grade	1	EACH		
29	Structure, Manhole, Reconstructed	42	LFT		
30	Casting, Water Valve, Adjust to Grade	26	EACH		

City of Hammond
2024-2 Community Crossings Road Project
DES #2400976
Bid Schedule

Item	Description	Quantity	Units	Unit Cost	Total Cost
31	Signal Cable, Roadway Loop, Copper, 1C/14 Gauge	38 868	LFT		
32	Signal Detector Housing	4,192 7	LFT EACH		
33	Saw Cut for Roadway Loop Detector and Sealant	14,700 292	LFT		
34	Line, Thermoplastic, Dotted, White, 6 IN.	504 38	LFT		
35	Line, Thermoplastic, Solid, White, 6 IN.	1,116 4,192	LFT		
36	Line, Thermoplastic, Solid, Yellow, 6 IN.	3,580 14,700	LFT		
37	Transverse Marking, Thermoplastic, Cross Hatch, Yellow, 12 IN.	27 504	EACH LFT		
38	Transverse Marking, Thermoplastic, Stop Line, White, 24 IN.	20 1,116	EACH LFT		
39	Transverse Marking, Thermoplastic, Crosswalk Line, White 6 IN.	4 3,580	EACH LFT		
40	Pavement Message Marking, Thermoplastic, Lane Indication Arrow	2,804 27	LFT EACH		
41	Pavement Message Marking, Thermoplastic, "ONLY"	38 20	LFT EACH		
42	Pavement Message Marking, Thermoplastic, RXR	4,192 4	LFT EACH		
43	Line, Thermoplastic, Broken, White, 6 IN.	14,700 2,804	LFT		
			BID TOTAL		

SECTION 00 43 36

LIST OF PROPOSED SUBCONTRACTORS

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

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Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

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Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Type of Construction _____
Amount of Contract \$ _____ % of Total Work _____

(Make copies of additional pages if needed)

SECTION 00 43 37

LIST OF PROPOSED SUPPLIERS

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Materials / Equip. to be Supplied _____
Amount of Supplies \$ _____ % of Total Supply _____

(Make copies of additional pages if needed)

SECTION 00 43 38

LIST OF HAMMOND BUSINESSES CONTACTED

PLEASE REFER TO APPENDIX, EXHIBIT A FOR A COMPLETE LIST OF POSSIBLE HAMMOND SUB-CONTRACTORS AND SUPPLIERS THAT MAY BE CONTACTED.

Company _____ Telephone No. _____

Name of Contact _____

Address _____

Trade Service / Materials / Equip. to be Supplied _____

Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____

Name of Contact _____

Address _____

Trade Service / Materials / Equip. to be Supplied _____

Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____

Name of Contact _____

Address _____

Trade Service / Materials / Equip. to be Supplied _____

Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____

Name of Contact _____

Address _____

Trade Service / Materials / Equip. to be Supplied _____

Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____

Name of Contact _____

Address _____

Trade Service / Materials / Equip. to be Supplied _____

Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

Company _____ Telephone No. _____
Name of Contact _____
Address _____
Trade Service / Materials / Equip. to be Supplied _____
Contracted to do work (circle one) Yes No

(Make copies of additional pages if necessary)

List of Hammond Businesses Contacted _____

PART 6

CONDITIONS OF THE CONTRACT

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

- requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

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

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

33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

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

1.02 Terminology

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

- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

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

2.02 *Copies of Documents*

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

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

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

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

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

inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

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

3.04 *Requirements of the Contract Documents*

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

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

3.05 *Reuse of Documents*

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

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

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

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the

established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

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

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

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

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
 - C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment

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

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

5.03 *Subsurface and Physical Conditions*

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

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

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

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

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

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

5.04 *Differing Subsurface or Physical Conditions*

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

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

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in

Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
- a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

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

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

or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
 4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

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

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

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

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

- of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

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

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

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

6.02 *Insurance—General Provisions*

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

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

- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

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

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

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

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

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

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

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

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

7.02 *Supervision and Superintendence*

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

7.03 *Labor; Working Hours*

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

- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *"Or Equals"*

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

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

7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

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

7.10 *Taxes*

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

7.11 *Laws and Regulations*

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

7.12 *Record Documents*

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

7.13 *Safety and Protection*

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

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

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

- 1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.

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

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

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

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

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

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

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

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. Use or occupancy of the Work or any part thereof by Owner;
 5. Any review and approval of a Shop Drawing or Sample submittal;
 6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or

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

7.18 *Indemnification*

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

7.19 *Delegation of Professional Design Services*

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

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

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

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

8.03 *Legal Relationships*

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

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
 - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
 - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 *Evidence of Financial Arrangements*
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 *Safety Programs*
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
 - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

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

10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

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

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

10.05 *Determinations for Unit Price Work*

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

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

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

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

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

D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

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

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

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

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

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

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

11.04 *Field Orders*

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

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

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

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. *Change Proposal Procedures*

1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change

Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

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

ARTICLE 12—CLAIMS

12.01 *Claims*

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

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

- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
 - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 - 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or

2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
 5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

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

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

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
- 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
- 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
 - 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 6. Expenses incurred in preparing and advancing Claims.
 - 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee*
- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
 - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
 - 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change

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

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

13.02 Allowances

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

13.03 Unit Price Work

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

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

E. *Adjustments in Unit Price*

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 3. by manufacturers of equipment furnished under the Contract Documents;
 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

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

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

14.04 *Acceptance of Defective Work*

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

14.05 *Uncovering Work*

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

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work,

or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 Owner May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

15.01 Progress Payments

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

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

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

C. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

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

E. *Reductions in Payment by Owner*

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

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time

submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

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

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

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

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

- d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

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

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

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

15.08 *Correction Period*

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

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

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

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

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects,

attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

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

16.03 *Owner May Terminate for Convenience*

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

16.04 *Contractor May Stop Work or Terminate*

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

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

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
 2. agree with the other party to submit the dispute to another dispute resolution process; or
 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

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

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

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

18.09 *Successors and Assigns*

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

18.10 *Headings*

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

DOCUMENT 00 73 00

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the General Conditions of the Contract and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions which are defined in the General Conditions of the Contract have the meaning assigned to them in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

The General Conditions of the Contract shall be EJCDC No. C-700 (2007 Edition) and are included in the Contract Documents by reference.

SUPPLEMENTARY CONDITIONS TO ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC-1.01 Add new paragraph 1.01A.51. immediately after paragraph 1.01A.50. of the General Conditions which shall read as follows:

51. "Additional Insureds", except where otherwise expressly defined, shall mean:
City of Hammond, Indiana
Hammond Redevelopment Commission
Hammond Parks Department

SUPPLEMENTARY CONDITIONS TO ARTICLE 5. SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.03 In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's consultants have relied upon:

- 5.03A.1. The following reports of explorations and tests of subsurface conditions at the site of the work:
- 5.03A.2. The following drawings of physical conditions in or relating to existing surface and subsurface structures which are at or contiguous to the site of the work:
None

Copies of these reports and drawings that are not included with Bidding Documents may be examined at ENGINEER'S OFFICE during regular business hours. These reports and drawings are not part of the Contract Documents, but the technical data contained therein upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02B. of the General Conditions and as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER and ENGINEER's Consultants in the preparation of Drawings and Specifications.

SC-5.04 In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's consultants have relied upon:

5.04F The following reports and drawings relating to hazardous environmental conditions identified at or contiguous to the site of the work:

None

SUPPLEMENTARY CONDITIONS TO ARTICLE 6. BONDS AND INSURANCE

SC-6.03 Add the following new sub-paragraph immediately after Paragraph 6.03.A:

6.03.A.1 The limits of liability for the insurance required by paragraph 6.03 of the General Conditions shall provide the following coverages for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation and related coverages under Paragraphs 6.03.A of the General Conditions

a. State	Statutory
b. Applicable Federal (e.g., Longshoreman's)	Statutory
c. Employers Liability	\$ <u>500,000</u>

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

a. General Aggregate	\$ <u>2,000,000</u>
b. Products – Completed Operations Aggregate	\$ <u>2,000,000</u>
c. Personal and Advertising Injury (Per Person/Organization)	\$ <u>1,000,000</u>
d. Each Occurrence (Bodily Injury and Property Damage)	\$ <u>1,000,000</u>
e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.	
f. Excess or Umbrella Liability	
a) General Aggregate	\$ <u>4,000,000</u>
b) Each Occurrence	\$ <u>4,000,000</u>

3. Automobile Liability under Paragraph 6.03.A of the General Conditions:

a. Bodily Injury:	
Each person	\$ <u>1,000,000</u>
Each Accident	\$ <u>1,000,000</u>

b. Property Damage:
Each Accident \$ 1,000,000

4. Contractor shall purchase and maintain until the date of final acceptance, Owners and Contractor's Protective Liability Insurance to protect OWNER, including its employees, officers and agents against claims which may arise from the operations of the Contractor, or his subcontractors. The coverage shall be for not less than the following amounts or greater where required by law or regulation:

Limits per Occurrence	
Bodily Injury/Property Damage	\$ <u>1,000,000</u>
Limits per Person/Organization	
Personal/Advertising Injury	\$ <u>1,000,000</u>
Aggregate Limit per Policy Year	
Products/Completed Operations	\$ <u>100,000</u>
General Aggregate Limit per Policy	
Year except Products/Completed Operations	\$ <u>1,000,000</u>

This insurance shall also cover the Engineers, Engineer's subconsultants or such other engineer or engineers as may act under the contract, against similar claims.

5. the OWNER shall be named as an additional insured, on a primary basis.
6. Other persons or entities to be included as additional insureds:
- a. City of Hammond, Indiana
 - b. Hammond Redevelopment Commission
 - c. Hammond Parks Department

SC-5.06A.1 Delete paragraph 5.06A.1 of the General Conditions in its entirety and insert the following in its place:

5.06A.1 include the interests of the Owner, and the officers, directors, members, partners, employees and agents of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

SC-5.06D Deductible amount for "Builder's Risk" Insurance shall be \$5000.

SUPPLEMENTARY CONDITIONS TO ARTICLE 7. CONTRACTOR'S RESPONSIBILITIES

SC-7.03 Add the following to paragraphs 7.03.C. of the General Conditions:

1. Work Hours: Perform work between 7:00 a.m. and 7:00 p.m. Mondays through Fridays only. Emergency work may be performed anytime without the OWNER's written consent required in paragraph 7.03.C.
2. Work After Hours: Night work may be established by CONTRACTOR as regular procedure with written consent of OWNER. Such consent, however, may be revoked

at any time by OWNER if CONTRACTOR fails to maintain adequate equipment and supervision for proper prosecution and control of night work.

3. No requirements of work other than at regular working hours shall form the basis of claims by the CONTRACTORS for additional compensation. There shall be no compensation from OWNER on overtime hours. CONTRACTOR shall include all expected overtime expenses in their bid.

SC-7.07 Add a new sub-paragraph after paragraph 7.07.D. of the General Conditions which shall read as follows:

1. Within 48 hours after the Bid Opening, CONTRACTOR shall submit to ENGINEER for review a list of the names of proposed manufacturers, materialmen, suppliers and subcontractors. Obtain approval of this list by OWNER prior to submission of any shop drawings or product data.

Add the following new paragraph 7.07.N to the General Conditions:

- N. Contractor shall supply to the OWNER and ENGINEER a copy of any agreement between the CONTRACTOR and Sub-Contractor, Supplier, or other individual or entity at the written request of the OWNER.

SC-7.10 Add the following language at the end of paragraph 7.10 of the General Conditions:

Materials and equipment that are purchased for this project that will become the property of the OWNER are exempt from sales tax. CONTRACTOR purchasing materials or equipment for the project shall obtain from the OWNER the proof of sales tax exemption.

SC-7.13 Add the following new Paragraphs 4., 5., 6. and 7. after Paragraph 7.13.C.3. of the General Conditions which shall read as follows:

4. No Duty. The duty of the OWNER or ENGINEER to observe CONTRACTOR's performance does not include any review of the adequacy of CONTRACTOR's safety measures in, on, or near the Work site or sites. ENGINEER has not been retained or compensated to provide design and construction review services relating to CONTRACTOR's safety precautions required for CONTRACTOR to perform the Work.
5. No Liability. Neither the OWNER, nor any official or employee of the OWNER, nor the ENGINEER, or any authorized assistant or agent of any of them, shall be responsible for safety precautions and programs in connection with the Work or any liability arising therefrom.
6. Protection of Operations. The CONTRACTOR shall take all necessary precautions so as to cause no unauthorized interruption in any essential part of wastewater system operations. Wastewater system operations must be maintained at the same level during construction as existed prior to construction.

Shutdowns for construction Work shall be scheduled in advance (minimum 14 days advance notice), carefully planned, and shall be carried out in close cooperation with the Hammond Sanitary District officials.

The CONTRACTOR shall take all necessary precautions so as to cause no unauthorized interruption of Highway Transportation Operations.

7. Special Requirements for Structural Design. All structures to be provided by the CONTRACTOR, (except those structures for which details are shown on the Drawings), that require structural design shall be designed and constructed under the observation of a structural engineer, registered in the State of the Project, acting for and retained by the CONTRACTOR. Drawings and calculations for such structures shall be prepared and sealed by the structural engineer and submitted to the ENGINEER for record. A clear outline of the proposed construction procedure shall be shown on the drawings. A statement in writing by the structural engineer attesting that said engineer has visited the Work site or sites, that the design does satisfy the conditions as actually encountered and that the actual construction conforms to the drawings and calculations, as submitted, must be submitted to the ENGINEER before the Work related to such structures will be considered complete.

All temporary structures, including sheeting and bracing for excavations, that affect the safety of the public, workmen, inspectors, or OWNER's or ENGINEER's personnel shall be regarded as structures that require structural design.

SUPPLEMENTARY CONDITIONS TO ARTICLE 12 – CHANGES TO THE CONTRACT

SC-12.05 Add the following new paragraph H after paragraph 12.05.G of the General Conditions which shall read as follows:

- H. No Damages for Delays: An extension of time shall be the CONTRACTOR's exclusive remedy in the event of a delay, no matter how or by whom caused. Contractor further specifically acknowledges that it shall have no claim for increase in contract price or damages because of any delays whatsoever to all or any part of the work whether foreseen or unforeseen, and whether caused by any person's hindrance or active interference.

SUPPLEMENTARY CONDITIONS TO ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-13.01 Add new sentence to paragraph 13.01.B5.d.A.2. Which states "OWNER is exempt from Indiana State Sales Tax and Use Taxes on materials and equipment to be incorporated into the work."

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustment under the following conditions:
 1. if the Bid price of a particular item of Unit Price Work amounts to ten percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by CONTRACTOR differs by more than ten percent from the estimated quantity of such item indicated in the Agreement; and,

2. if there is no corresponding adjustment with respect to any other item of Work; and,
3. if Contractor believes that Contractor has incurred additional expense as a result thereof; or if Owner believes that the quantity variation entitles OWNER to an adjustment in the unit price, either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed

SUPPLEMENTARY CONDITIONS TO ARTICLE 15. PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC-15.05 Add the following language after the second sentence of Paragraph 15.05.A:

If, after such measures are taken, subsequent inspections by ENGINEER reveal that any of the previously identified particulars remain incomplete or defective, ENGINEER, will again notify CONTRACTOR in writing of the remaining particulars. All costs associated with any subsequent inspections in which said remaining particulars are revealed, will be documented by ENGINEER and paid by CONTRACTOR to OWNER.

SUPPLEMENTARY CONDITIONS TO ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

SC-17.01 Add the following new paragraph C after Paragraph 17.01.B of the General Conditions which shall read as follows:

C. Notwithstanding any applicable statute of limitation, a party giving notice under Paragraph 16.01.C.1 shall commence an action on the Claim within one year of giving such. Failure to do so shall result in the Claim being time-barred and Engineer’s action or denial shall become final and binding.

SUPPLEMENTARY CONDITIONS TO ARTICLE 18 – MISCELLANEOUS

SC-18.11 Add new paragraph 18.11 which states “CONTRACTOR must comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29.CFR Part 3)”.

SC-18.12 Add new paragraph 18.12 which states “CONTRACTOR agrees to permit access by the OWNER (Grantee), the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representative to any books, documents, papers, and records of the “CONTRACTOR, which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcripts.”

SC-18.13 Add new paragraph 17.09 which states “Contractor agrees to retain all required records for three years after OWNER (grantee) makes final payments and all other pending matters are closed.”

END OF SECTION

Intro 9-23-13

13 - 48

SPONSOR: Janet Venecz
Councilwoman at Large

ORDINANCE NO. 9227 & Robert Markovich,
Councilman at Large

AN ORDINANCE AMENDING ORD. 8081 AS IT RELATES TO PROJECT
LABOR AGREEMENTS IN THE CITY OF HAMMOND AND HAMMOND
RESIDENTS ON PUBLIC PROJECTS

WHEREAS, Ordinances 8081 requires project labor agreement (PLA's) in City of Hammond Contracts, as such agreements reduce the risk of loss and delay from strikes, work stoppages and unsatisfactory labor or training; and

WHEREAS, Project Labor Agreements facilitate the timely and efficient completion of public projects by making available a ready and adequate supply of highly trained and skilled craft workers and permitting public and private owners and contractors to accurately determine labor costs at the outset; and

WHEREAS, The Mayor of the City of Hammond, and the Hammond Common Council have always and continue to support Unions, however, during the current economic recession it is imperative that domiciled Hammond residents be granted employment opportunities on Hammond public works projects; and

WHEREAS, The Mayor of the City of Hammond and the Hammond Common Council wish to support, encourage and offer opportunities for businesses and organizations that are located in Hammond; and

WHEREAS, the projected gaming revenues received for public works projects are expected to be less than in previous years, and conservation of limited infrastructure and public safety resources requires the restriction of expenditures that do not benefit Hammond residents; and

**AN ORDINANCE AMENDING ORD. 8081 AS IT RELATES TO PROJECT
LABOR AGREEMENTS IN THE CITY OF HAMMOND AND HAMMOND
RESIDENTS ON PUBLIC PROJECTS**

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Common Council of the City of Hammond that Ordinance 8081 is amended and will now read as follows:

Definitions: For the purposes of this Ordinance, the following definition shall apply unless the context clearly indicates or requires a different meaning:

Hammond Residents: Persons domiciled within the City of Hammond. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

- 1) All solicitations for bids on any public works project valued over five thousand dollars (\$5000.00) bid, issued, contracted and approved by the Hammond Board of Public Works and Safety of the City of Hammond, shall, except as otherwise provided herein, or where prohibited by State or Federal law, include a Project Labor Agreement (herein after "PLA").
- 2) Such Project Labor Agreement, (PLA) to be valid and binding upon the City of Hammond must be signed by each and every trade which is participating in the agreement. The failure or the refusal by any trade to sign the agreement voids the Project Labor Agreement and the City is then free to re-bid or otherwise award the project without such restriction or limitation.
- 3) Such Project Labor Agreement, (PLA) shall contain a requirement that at least twenty five (25%) of the work force on the project, located in the City of Hammond, be domiciled Hammond Residents, or in the alternative, the total workforce hours of all employees hired by the contractor and its subcontractors, in the categories of skilled and non-skilled jobs, or any combination thereof, shall be performed by at least twenty five (25%) actual

**AN ORDINANCE AMENDING ORD. 8081 AS IT RELATES TO PROJECT
LABOR AGREEMENTS IN THE CITY OF HAMMOND AND HAMMOND
RESIDENTS ON PUBLIC PROJECTS**

Hammond Residents. The failure or the refusal by any trade to agree to this provision, or fulfill this provision once bid, voids the Project Labor Agreement for that project and the City is then free to re-bid or otherwise award the project without restriction or limitation.

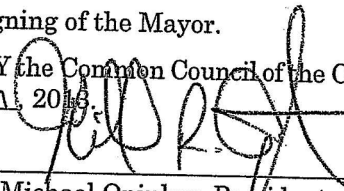
- 4) This minimal percentage of Hammond Residents shall not be understood as limiting or deterring the fuller utilization of Hammond Residents beyond this level, but is intended instead as a minimum requirement unless the City of Hammond grants a waiver based upon demonstration by the contractor of impracticability or excessive cost of compliance. In the event that a sufficient quantity of qualified and skilled Hammond residents cannot be located for the project, the City and the General Contractor can agree to a lesser amount in writing, but no time may lower than five percent (5%) of the workforce be domiciled Hammond Residents. The City of Hammond retains the right to cancel any project where insufficient labor is available.
- 5) The Project Manager and/or Construction Manager on the project shall negotiate and enter into a Project Labor Agreement with the City and the local labor unions will provide experienced and skilled workers and will be bound by the provisions of that Agreement in the same manner as any other construction contract. The City of Hammond's local hiring ordinance shall be included in all construction contracts let by the City. Any contractor entering into a public contract with the City of Hammond agrees to comply with and be bound by the terms of the local hiring ordinance, and failure to comply shall be considered breach of same.
- 6) Bidders under a Project Labor Agreement must be the lowest responsible and responsive bidder, and must comply with all applicable Federal, State and Local Ordinances and complete all forms and bid documents submitted by the City of Hammond.

**AN ORDINANCE AMENDING ORD. 8081 AS IT RELATES TO PROJECT
LABOR AGREEMENTS IN THE CITY OF HAMMOND AND HAMMOND
RESIDENTS ON PUBLIC PROJECTS**

- 7) The Hammond Board of Public Works and Safety retains the authority to reject all bids on any public project, and has the legal authority to enforce compliance with the terms of the Project Labor Agreement and when noncompliance is evident, award the project to the next lowest responsible and responsive bidder. Upon evidence of non-compliance the City retains the authority to issue a stop-work order until compliance is achieved or documented, suspend payment to a contractor until compliance is achieved or documented or terminate the contract or take any other legal action available.
- 8) Monitoring of compliance with the local hiring ordinance shall be done by a compliance officer from the City of Hammond and the Inspection Department, who are authorized under this Ordinance to enter any public work job site in the City of Hammond and request a copy of certified payroll, employee pay records or employee identification. The Contractor shall assist in compliance verification by maintaining adequate employee residency records to ensure that actual Hammond Residents are employed on the project. The City of Hammond retains the right to dispute an employee's actual residency and require affidavits or other supporting documentation to verify same. Any contractor who knowingly submits falsified records may be excluded from bidding on future City of Hammond projects.

NOW BE IT FURTHER ORDAINED that herein ordinance shall have full force and effect from and after passage, approval by the Council, signing by the President thereof and approval and signing of the Mayor.

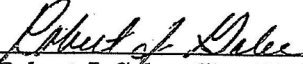
ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana, this 23rd day of September, 2016.



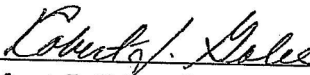
Michael Opinker, President
Hammond Common Council

AN ORDINANCE AMENDING ORD. 8081 AS IT RELATES TO PROJECT
LABOR AGREEMENTS IN THE CITY OF HAMMOND AND HAMMOND
RESIDENTS ON PUBLIC PROJECTS


ATTEST:


Robert J. Golec, City Clerk,
City of Hammond, Indiana

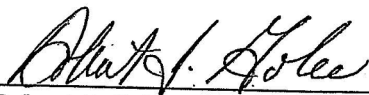
PRESENTED BY ME, the undersigned City Clerk of the City of Hammond,
Indiana, to the Mayor, for approval and signature, this 24th day of September, 2013.


Robert J. Golec, City Clerk
City of Hammond, Indiana

The foregoing Ordinance No. 9227 consisting of five (5) typewritten pages,
including this page, was APPROVED AND SIGNED BY ME, the undersigned Mayor
of the City of Hammond, Indiana, this 26th day of September, 2013.


Thomas M. McDermott, Jr., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 23rd day of September, 2013, and
ADOPTED by the Mayor on the 26th day of September, 2013.


Robert J. Golec, City Clerk
City of Hammond, Indiana

SPONSOR: Frank Mrvan
Councilman-at-Large

ORDINANCE NO. 8081

AN ORDINANCE TO REQUIRE PROJECT LABOR AGREEMENTS
IN CITY CONTRACTS FOR THE CITY OF HAMMOND
(AS AMENDED)

WHEREAS, Project Labor Agreements have proven to be of economic benefit to property owners, including states and their subdivisions, for their construction, alteration or repair projects (including any closely interrelated series of projects;) and

WHEREAS, Project Labor Agreements facilitate the timely and efficient completion of such projects by (a) making available a ready and adequate supply of highly trained and skilled craft workers (b) permitting public and private owners and contractors and subcontractors to accurately determine project labor costs at the outset and to establish working conditions for all construction crafts for the duration of such projects, (c) allowing for the negotiation of specialized terms and conditions which, because of the particular circumstances relating to a specific project, may be required for the effective construction of the project, and (d) providing a negotiated commitment which is a legally enforceable means of assuring labor stability and labor peace over the life of such projects; and

WHEREAS, the City of Hammond, Indiana, is dedicated to obtaining an economic benefit to its community and its citizens, while at the same time ensuring that its projects have a ready and adequate supply of highly trained and skilled craft workers, understands the need to accurately determine project labor costs at the outset and to insure that decent working conditions exist for the working people who supply their labor on its projects and desires to assure labor stability and labor peace on its projects; and

WHEREAS, there are economic and quality of life benefits to be gained from and protected by Project Labor Agreements by our citizens and our community; and

WHEREAS, the United States Supreme Court on March 8, 1993 issued its unanimous decision in Building and Construction Trades Council of the Metropolitan District upholding the legality of the "Boston Harbor Project Agreement" which documents the legal basis for the instant action; and

AN ORDINANCE TO REQUIRE PROJECT LABOR AGREEMENTS
IN CITY CONTRACTS FOR THE CITY OF HAMMOND
(AS AMENDED)

WHEREAS, the Indiana Public Construction Act, I.C. 36-1-12, et seq., allows the use of Project Labor Agreements by political subdivisions of the State of Indiana such as the City of Hammond, Indiana, when the political subdivision is the owner of property upon which a construction project will take place; and

WHEREAS, the Board of Public Works and Safety is authorized to and does execute all contracts where the City of Hammond, Indiana, is the owner or lessee of the property upon which the construction project takes place; and

WHEREAS, the Common Council and the Board of Public Works and Safety of the City of Hammond, Indiana desires that Project Labor Agreements be used where it is the owner of the property upon which construction takes place (or lessee or the beneficiary of a separate corporation which is created to perform construction, alteration or repair work for the benefit of the City of Hammond Indiana and this Community) although the Board of Public Works and Safety of the City of Hammond, Indiana recognizes that there may be circumstances where in the case of an individual project the benefits of proceeding without a Project Labor Agreement may substantially exceed the benefits of proceeding with such an agreement, in which case a written report shall be prepared by the specific department involved in such project and such project shall be submitted to the Board of Public Works and Safety of the City of Hammond, Indiana for their consideration and decision; and further desires, as expressed herein, that all Project Labor Agreements covering City of Hammond, Indiana owned, utilized or leased property be negotiated by and through the local labor unions representing experienced and skilled construction workers.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF HAMMOND, as follows:

Section 1:

It is the policy, as expressed herein, of the City of Hammond, Indiana to provide for the negotiation of mutually acceptable Project Labor Agreements with local labor unions representing experienced and skilled construction workers covering such construction, alteration or repair work, such as the Project Labor Agreement attached hereto as Exhibit A.

AN ORDINANCE TO REQUIRE PROJECT LABOR AGREEMENTS
IN CITY CONTRACTS FOR THE CITY OF HAMMOND

(AS AMENDED)

Section 2:

All solicitations for bids issued by the Board of Public Works and Safety of the City of Hammond, Indiana (or a corporation created to benefit the City of Hammond in construction, alteration or repair) shall, except as otherwise provided herein, include the following language:

"Each successful bidder and any and all levels of subcontractors, regardless of tier, as a condition of being awarded a contract or subcontract, will agree to abide by the provisions of the _____ Project Labor Agreement as executed and effective _____, 20____, by and between the Project Manager and/or Construction Manager authorized to negotiate and enter into such a Project Labor Agreement on behalf of the City of Hammond, Indiana (or a corporation created to benefit the said entity in construction, alteration, or repair) and the local labor unions representing experienced and skilled construction workers and will be bound by the provisions of that Agreement in the same manner as any other provisions of the contract."

Section 3:

Any "Instructions to Bidders" or like document issued for a Public Works Project by the City of Hammond, Indiana shall, except as otherwise provided herein, include the language such as in the Bid Specification document attached hereto as Exhibit B and specifically the following language:

"The general contract and all subcontracts regardless of tier, will be awarded to the lowest most responsible, and most responsive bidder complying with the conditions and requirements provided in these Instructions, the bid forms and other bid documents. In determining whether a bidder is responsive or responsible, the Board of Public Works and Safety shall comply with the facts enumerated in I.C. 36-1-9-3(j) and (k). An "eligible" bidder is one who complies with all applicable provisions of the bid specifications, local ordinances, and state statutes. In the interests of such harmony, the long term supply of skilled labor, and to provide a legally enforceable means of assuring labor stability and labor peace over the life of the project, each successful bidder and any and all levels of subcontractors, regardless of tier, as a condition of being awarded a contract or subcontract, shall be required to enter into a Project Labor

Agreement for the _____ project with local labor.

AN ORDINANCE TO REQUIRE PROJECT LABOR AGREEMENTS
IN CITY CONTRACTS FOR THE CITY OF HAMMOND
(AS AMENDED)

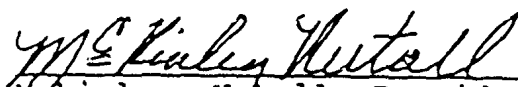
unions representing experienced and skilled construction workers for the development and construction of the Project, and will be bound by the provisions of that Project Labor Agreement in the same manner as any other provisions of the contract."

Section 4:

The Board of Public Works of the City of Hammond, Indiana, retains its inherent authority to adopt means to enforce compliance by any contractor or subcontractors, regardless of tier, with the provisions of any Project Labor Agreement entered into on behalf of the City of Hammond, Indiana (or lessee or the beneficiary of a separate corporation created to benefit the said entity in construction, alteration or repair).

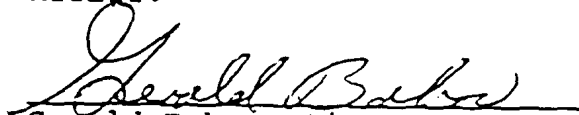
Section 5:

This ordinance shall have full force and effect after the public hearing, passage and approval hereof by the Common Council, signing by the president thereof and approval and signing by the Mayor or override of any veto by the Common Council.




McKinley Nuttall, President
Common Council

ATTEST:



Gerald Bobos, City Clerk

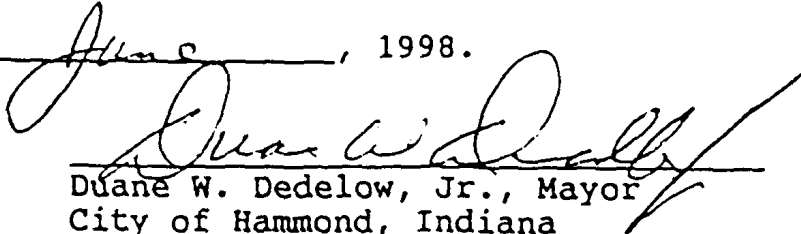
PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City for his approval on the 9th day of June, 1998.



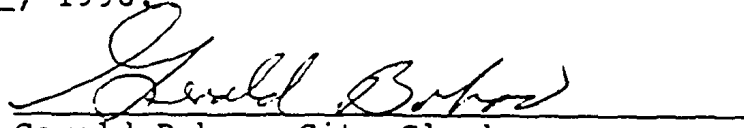
Gerald Bobos, City Clerk

AN ORDINANCE TO REQUIRE PROJECT LABOR AGREEMENTS
IN CITY CONTRACTS FOR THE CITY OF HAMMOND
(AS AMENDED)

The foregoing Ordinance No. 8081 consisting of five (5)
typewritten pages, including this page was approved by the Mayor on
the 17th day of June, 1998.


Duane W. Dedelow, Jr., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 8th day of June,
1998 and approved, by the Mayor on the 17th day of
June, 1998.


Gerald Bobos, City Clerk

**EXHIBIT A TO ORDINANCE TO REQUIRE PROJECT LABOR
AGREEMENTS IN CITY CONTRACTS FOR THE CITY OF HAMMOND**

[Project Name]

PROJECT LABOR AGREEMENT

This Project Labor Agreement ("Agreement" or "Project Labor Agreement") is entered into this _____ day of _____, 20__, by and between the City of Hammond Board of Public Works and Safety (hereinafter "City"), which is in charge of the Project identified herein and the Northwestern Indiana Building and Construction Trades Council, AFL-CIO ("Building Trades") on behalf of its Affiliated Local Unions whose names appear on the attached signatory page ("Affiliated Local Unions") collectively called the "Union" or "Unions"), with respect to the construction of the [Project Name] in Hammond, Indiana
("Project.")

It is understood by the parties to this Agreement that it is the policy of the **City of Hammond, Indiana**, as the "Awarding Agency" that the construction work covered by this Agreement shall be contracted to Contractors who agree to execute and be bound by the terms of this Agreement. Therefore, the Unions agree that other Contractors may execute the Agreement for the purpose of covering that work. The Engineer in charge of the Project shall monitor compliance with this Agreement by all Contractors who through their execution of this Agreement, together with their subcontractors, have become bound hereto.

The Term "Contractor" shall include all Contractors and subcontractors of whatever tier engaged in construction work within the scope of this Agreement, including the Architect/Engineer when the perform construction work within the scope of this Agreement.

The Union and the City in charge of the Project and all signatory Contractors agree to abide by the terms and conditions contained in this Agreement with respect to the administration of the Agreement by the City and the performance of the construction by the Contractor of the Project. This agreement which incorporates the Collective Bargaining Agreements of the Signatory Affiliated Local Unions represents the complete understanding of the parties. These collective bargaining agreements are attached hereto as Schedule A. This Agreement represents the complete understanding of the parties, and it is further understood that no Contractor is required to sign any other agreement as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not explicitly set forth in this Agreement shall be binding on any other party unless endorsed in writing by the above named City.

ARTICLE I

PURPOSE

The timely and successful completion of the Project is of vital importance to all the people of the State of Indiana and the community in which it is located.

Therefore, it is essential that the construction work be done in an efficient and economical manner in order to secure optimum productivity and to eliminate any delays in the work. In recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Project Labor Agreement, the parties agree to establish effective and binding methods of the settlement of all misunderstandings, disputes or grievances which may arise. Therefore, the Unions agree not to engage in any strike, slowdown or interruption of work and the Contractor agrees not to engage in any lockout.

ARTICLE II

SCOPE OF THE AGREEMENT

Section 1. This Agreement shall apply and is limited to all construction work (including pre-operational testing, check-out and start-up) on all facets of the Project on and after the effective date of this Agreement. As permitted by law, this Agreement shall also apply to suppliers delivering supplies and equipment to the project.

Section 2. The provisions of this Project Labor Agreement including the applicable collective bargaining agreements of the Affiliated Local Unions (Schedule A) shall apply to the construction of the Project, notwithstanding the provisions of Local, Area and/or National Agreements which may conflict or differ from the terms of the Agreement. Where a subject covered by the provisions of this Project Labor Agreement is also covered by the provisions of any Affiliated Local Union's Collective Bargaining Agreement, the provisions of this Project Labor Agreement shall prevail. Where a subject is covered by the provisions of an Affiliated Local Union's Collective Bargaining Agreement and not covered by the Project Labor Agreement, the Affiliated Local Union's Collective Bargaining Agreements provisions shall prevail. It is understood that the Affiliated Local Unions' Collective Bargaining Agreements are negotiated from time to time. Thus, the parties are in agreement that each Affiliated Local Unions then Current Collective Bargaining Agreement is incorporated herein so long as that contract is one in which signatory contractors to the instant Project Agreement are to be treated the same as all other signatory contractors performing the same or similar work under the same or similar circumstances.

Section 3. This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries or other ventures of any such party.

ARTICLE III

UNION RECOGNITION AND EMPLOYMENT

Section 1. The Contractor recognizes the union as the sole and exclusive bargaining representative of all craft employees working on facilities within the scope of this Agreement.

Section 2. Applicants for various classifications covered by the Agreement required by the Contractor on the Project shall be handled in accordance with the hiring procedures set forth within the applicable Affiliated Local Union's Collective Bargaining Agreement. The Contractor shall have the right to determine the competency of all employees, the right to determine the number of employees required and shall have the sole responsibility for selecting the employees to be laid off consistence with Article IV, Section 3 below. The Contractor shall also have the right to reject any applicant referred by the Local Union, subject to the show-up payments required in the applicable Schedule A.

Section 3. All employees covered by this Project Agreement shall be subject to the union security provisions contained in the applicable Affiliated Local Union's Collective Bargaining Agreement.

Section 4. An Affiliated Local Union shall not knowingly refer to a Contractor under this agreement employees currently employed by another contractor working under this Agreement.

Section 5. The Local Unions will exert their utmost efforts to recruit sufficient number of skilled craftsmen to fulfill the manpower requirements of the Contractor.

Section 6. The selection of craft foremen and/or general foremen and the number of foremen required shall be in accord with the applicable Affiliated Local Union's Collective Bargaining Agreement although the final decision to hire remains that of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives.

Section 7. The Contractor is required to attend a pre-job conferences(s) including craft work assignments, for all work performed under this Project Agreement. It is the responsibility of the **City of Hammond, Indiana** to notify the Northwestern Indiana Building Trades Council of all work being performed under this agreement for purposes of the pre-job conference(s). A pre-job conference outline can be obtained from the Northwestern Indiana Building Trades Council at whose office the pre-job conference shall be held. Failure to comply with this Section is a violation of this Agreement.

ARTICLE IV

UNION REPRESENTATION

Section 1. Authorized representatives of the Union shall have access to the Project, provided they do not interfere with the work of employees and further provided that such representatives fully comply with the posted, reasonable visitor and security and safety rules of the Project set forth by the **City of Hammond, Indiana**.

Section 2. Each signatory Local Union shall have the right to place its own job stewards on the Project and shall notify the applicable Contractor in writing of the identity of such stewards prior to the assumption of his/her duties as steward. Stewards shall not exercise any supervisory functions. There will be no non-working stewards. In addition to his/her work as an employee, the steward shall have the right to receive but not solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward shall be concerned with the employees of the steward's contractor and, if applicable, subcontractors, and not with the employees of any other contractor. The contractor will not discriminate against the steward in the proper performance of his/her Union duties. The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 3. The Contractor agrees to notify the appropriate Union twenty-four (24) hours prior to the layoff of a steward, except in the case of discipline or discharge for just cause. If a steward is protected against such layoff by the provisions of an Affiliated Local Union's Collective Bargaining Agreement, such provisions shall be recognized to the extent that the steward possesses the necessary qualifications to perform the work remaining. In any case in which a steward is discharged or disciplined for just cause, the appropriate Union shall be notified immediately by the Contractor.

Section 4. On work where the **City of Hammond, Indiana** may be working in close proximity of the construction activities, the Union agrees that the Union representatives, stewards and individual workers will not interfere with the **City of Hammond, Indiana's**, personnel or with the work which is being performed by the **City of Hammond, Indiana's**, personnel.

ARTICLE V

MANAGEMENT'S RIGHTS

Section 1. The Contractor retains full and exclusive authority for the management of its operation. Except as expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the work force, including the hiring, promotion, transfer, layoff, discipline or discharge for just cause of its employees; the selection of foremen; the schedule of work; the promulgation of reasonable work rules; and, the requirement of overtime work, the determination of when it shall be worked, and the number and identify of employees engaged for such work.

No rules, customs or practices which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Contractor may utilize any methods or techniques of construction so long as they are reasonable and safe within the particular circumstances.

Section 2. Except as otherwise expressly stated in this Agreement, there shall be no limitation or restriction upon the Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work.

Section 3. Except as otherwise expressly stated in this Agreement, it is recognized that the use of new technology, equipment, machinery, tools and/or labor-saving devices and methods of performing work may be initiated by the Contractor from time to time during the Project. The Union agrees that it will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractor and the Union concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor, and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article VI of this Agreement.

ARTICLE VI

WORK STOPPAGE AND LOCKOUTS

Section 1. The parties hereby adopt, and agree to be bound by, the grievance procedure set forth in the applicable Affiliated Local Union's collective bargaining agreement.

Section 2. There shall be no strike, picketing, work stoppages, slowdowns or other disruptive activity for any reason by the

Union or employees against any Contractor covered under this Agreement, and there shall be no lockout by the Contractor.

ARTICLE VII

WAGES, BENEFITS AND WORKING CONDITIONS

Section 1. All employees covered by this Agreement shall be classified in accordance with work performed and paid the base hourly wage rates and work under the terms and conditions of employment for those classifications as specified in the Affiliated Local Union's Collective Bargaining Agreements (Schedule A).

Section 2. The Contractor agrees to pay contributions to the established employee benefit funds in the amounts designated in the Affiliated Local Unions' Collective Bargaining Agreements (Schedule A).

The Contractor adopts and agrees to be bound by the written terms of the legally-established Trust Agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust funds. The Contractor authorizes the parties to such Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratifies and accepts the Trustees so appointed as if made by the Contractor.

ARTICLE VIII

HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 1. The work week shall consist of forty hours Monday through Friday. The standard work day shall consist of eight hours of work between the hours of 7:00 a.m. and 3:30 p.m. with one half hour unpaid lunch to commence no earlier than 12:00 p.m. and no later than 12:30 p.m. The standard work day may be changed upon mutual agreement of the parties. Starting time shall commence and quitting time shall occur at the employee's change shack. The parties further agree to hold a pre-job conference prior to the commencement of work under this Project, and at other times as they may mutually agree, in order to review and reconsider this Section of Agreement.

Section 2. Overtime pay shall be paid to each job classification performing work on this Project as set forth in the Affiliated Local Union's Collective Bargaining Agreements for that job classification (Schedule A).

Section 3. It shall not be a violation of this agreement if the Contractor considers it necessary to suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked: provided, however, that where the employer requests employees to remain at the site and available for work, the employees will be compensated for the standby time at their base hourly rate of pay.

Section 4. Shift work will be performed in accordance with the Affiliated Local Unions' Collective Bargaining Agreements for their respective job classifications (Schedule A).

Section 5. Recognized holidays shall be: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day and Christmas Day.

ARTICLE IX

SAFETY, PROTECTION OF PERSON AND PROPERTY

Section 1. In accordance with the requirements of the Occupational Safety and Health Act, it shall be the exclusive responsibility of each Contractor on the job site to ensure safe working conditions for its employees and their compliance with any safety rules contained herein or established by the Contractor or as may be established by the **City of Hammond, Indiana**, provided however, it is understood that the employees have an obligation as set forth in Section 2 below.

Section 2. Employees must use diligent care to perform their work in a safe manner and to protect themselves and the property of the contractor or the **City of Hammond, Indiana**.

Section 3. Employees covered by the terms of this Agreement shall at all times while in the employ of the Contractor be bound by any reasonable safety, security, and visitor rules as may be established by the City in accordance with applicable State and Federal safety and health statutes and regulations. These rules will be published and posted in conspicuous places throughout the Project.

ARTICLE X

SECURITY OF MATERIAL, EQUIPMENT AND TOOLS

The inspection of incoming shipments of equipment, apparatus, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice to the extent that such job classification(s) is (are) not expressly covered by an Affiliated Local Union's Collective Bargaining Agreement. All employees shall comply with reasonable security procedures established for the Project.

ARTICLE XI

NO DISCRIMINATION

Section 1. The Contractor and the Unions agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or age in any manner prohibited by law or regulations.

Section 2. Any complaints regarding application of the provisions of Section 1 should be brought to the immediate attention of the involved Contractor for consideration and resolution.

Section 3. The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE XII

SAVINGS AND SEPARABILITY

Section 1. It is not the intention of any of the parties herein to violate any laws governing the subject matter of this Agreement or the Affiliated Local Unions' Collective Bargaining Agreements which are adopted herein. The parties hereto agree that in the event any provisions of the Agreement or any of the Affiliated Local Unions' Collective Bargaining Agreements are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of such Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of the Agreement. Further, the Contractor and Union agree that if and when any and all provisions of such Agreement are finally held or determined to be illegal or void by an agency or a Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the parties hereto.

ARTICLE XIII

MISCELLANEOUS

Section 1. Whenever the word "Contractor" is utilized herein, it is synonymous with the work "Subcontractor" (at whatever tier). The fact that the two words may appear in one sentence and not in another shall make no difference with respect to the application of this Agreement.

Section 2. If the Contractor desires to adopt a substance abuse program, it will adopt the MOST Program for boilermakers working under this Agreement, adopt the U.S. Department of Transportation rules for employees represented by Teamsters Local 135 and adopt the BCRC Program for all other bargaining unit employees working under the Project Agreement.

ARTICLE XIV

DURATION OF THE AGREEMENT

This Project Labor Agreement shall be effective _____, 20__ , and shall continue in effect for the duration of the Project construction work described in Article II hereof. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, action or segment has been turned over to the **City of**

Hammond, Indiana, and has received the final acceptance from the **City of Hammond, Indiana's**, representative.

**EXHIBIT B TO ORDINANCE TO REQUIRE PROJECT
LABOR AGREEMENTS IN CITY CONTRACTS FOR THE CITY OF HAMMOND
SHEFFIELD PARK ENTRANCE IMPROVEMENTS
BID SPECIFICATIONS**

Section 1(a). It is understood by each successful bidder and any and all levels of Contractors, regardless of tier, that it is the policy of the **City of Hammond, Indiana** as the "Awarding Agency" that the construction work covered by this Bid Specification on the [Project Name] (hereinafter "the Project") shall be contracted to Contractors who agree to execute and be bound by the terms of the attached the [Project Name] Project Labor Agreement. The General Contractor shall monitor compliance with the [Project Name] Project Labor Agreement by all Contractors who through their execution of the attached the [Project Name] Project Labor Agreement, together with their subcontractors, have become bound hereto.

(b) The term "Contractor" shall include all Contractors and subcontractors regardless of tier engaged in construction work on this the [Project Name] including the General Contractor or Project Engineer when they perform construction work within the scope of the [Project Name] Project Labor Agreement.

Section 2. The general contract (and all independent subcontracts, i.e., subcontracts not included within a general contract and regardless of tier) will be awarded to the lowest responsible and responsive bidder complying with the conditions and requirements provided in these Instructions, the bid forms and other bid documents. In determining whether a bidder is responsive or responsible, the Board of Public Works and Safety shall comply with the factors enumerated in I.C. 36-1-9-3(j) and (k). an 'eligible' bidder is one who complies with all applicable provisions of the bid specifications, local ordinances, and state statutes. In the interests of such harmony, the long-term supply of skilled labor, and to provide a legally enforceable means of assuring labor stability and labor peace over the life of the project, each successful bidder and any and all levels of subcontractors, regardless of tier, as a condition of being awarded a contract or subcontract, shall be required to enter into a Project Labor Agreement for [Project Name] Project with local labor unions representing experience and skilled construction of the Project, and will be bound by the provisions of that Project Labor Agreement in the same manner as any other provision of the contract.

Section 3. The **City of Hammond, Indiana**, has the absolute right to select any qualified bidder for the award of the contracts on this Project without reference to the existence or non existence of any Agreements between such bidder and any party to this Agreement provided, however, only that such bidder is willing, ready and able to

execute and comply with the Project Labor Agreement, should it be designated the successful bidder.

Section 4(a). The **City of Hammond, Indiana**, shall not make any final pay out to any General Contractor nor shall any contractor or subcontractor, regardless of tier, make any final pay-out, on this Project until such time as General Contractor and/or Prime Contractor has provided the **City of Hammond, Indiana**, written confirmation from the appropriate craft unions that all wages and fringe benefits owed by the particular contractor or subcontractor(s) regardless of tier for work on the Project have been paid.

(b). An individual Contractor shall provide in its subcontract(s) that the subcontractor(s) will pay the wages and benefits and will observe the hours and other terms and conditions of [Project Name] Project Labor Agreement. The individual Contractor shall be held liable for any default by such subcontractor in the payment of any wages or fringe benefits herein.

(c). The union shall promptly notify the individual Contractor and the subcontractor regarding the nature and amount of any delinquency. If such notice is given, the individual Contractor shall pay and satisfy the amount of such delinquency occurring within fifteen (15) days after receipt of such notice from union, and the **City of Hammond, Indiana**, shall withhold the amount claimed to be delinquent out of the sums due and owing by Contractor to such subcontractor.

Section 5. The application of the [Project Name] Project Labor Agreement shall be limited to work historically recognized as construction work, including, for example, but not limited to, surveying, site preparation and related demolition necessary to prepare the site for construction, rehabilitation or renovation of existing facilities, new construction, as is directed by the **City of Hammond, Indiana**.

Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work or function which may occur in or around the Project site or be associated with the development of the Project, or with the ongoing operations of the **City of Hammond, Indiana**.

Section 6. Items specifically excluded from the scope of this [Project Name] Project Labor Agreement include, but are not limited to, the following:

- A. Work of non-manual labor employees, including but not limited to, superintendents, supervisors, staff engineers, inspectors, quality control personnel, quality assurance personnel (except when any of such aforementioned job classification(s) is (are) expressly covered by an Affiliated Local Union's Collective Bargaining Agreement), timekeepers, mail carriers, clerks, office workers, including messengers, guards, emergency medical and first aid

technicians, and other professional, engineering, administrative, supervisory and management employees.

- B. All employees of the **City of Hammond, Indiana**, and all employees of the Project Engineer or General Contractor and Contractors not performing manual labor.
- C. Any work performed on or near, or leading to or into, the Project site by state, county, city or other governmental bodies or their Contractors; or by public utilities or their Contractors; and/or by the **City of Hammond, Indiana**, or its Contractors {for work which is not part of the Project.}
- D. Maintenance on equipment.
- E. Warranty work and functions, and supervision of such work.
- F. Exploratory geophysical testing and boring.
- G. Laboratory or specialty testing or inspections.

Section 7. None of the provisions of [Project Name] Project Labor Agreement shall apply to the **City of Hammond, Indiana** and nothing contained herein shall be construed to prohibit or restrict the **City of Hammond, Indiana**, or its employees from performing work not covered by this Agreement on the Project site. As areas and systems of the Project are inspected and construction tested and accepted by the **City of Hammond, Indiana**, the Agreement shall not have further force or effect on such items or areas, except when the **Project Engineer** or the **General Contractor** are directed by the **City of Hammond, Indiana**, to engage in repairs, modification, check-out and/or warranty functions required by their contract(s) with the **City of Hammond, Indiana**.

Section 8. It is understood that the **City of Hammond, Indiana**, at its sole option, may terminate, delay and/or suspend any or all portions of the Project at any time.

Section 9. It is understood that the Project is under the continuing supervision of the **City of Hammond, Indiana**, and the parties recognize that adjustments in construction planning, processes, procedures, timing, or in the provisions of the [Project Name] Project Labor Agreement be necessitated by the direction of the **City of Hammond, Indiana**.

Section 10. It is understood that the liability of any Contractor and the liability of the Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among themselves, the **City of Hammond, Indiana**, the **Project Engineer**, the **General Contractor** and/or any subcontractors.

Section 11. That the successful bidder for the *[Project Name]* Project Labor Agreement as General Contractor shall be required to maintain on site all paperwork or other documentation for any and all levels of subcontractors, regardless of tier, to ensure compliance with requirements of payment of wages and fringe benefits owed by the General Contractor or Subcontractor(s) for the *[Project Name]*.

Section 12. That the successful bidder as General Contractor shall provide its list of Subcontractor(s) and signed copies of the *[Project Name]* Project Labor Agreement within ten (10) days following award of the Bid for *[Project Name]*.

BOARD OF PUBLIC WORKS & SAFETY

**NORTHWESTERN INDIANA BUILDING
AND CONSTRUCTION TRADES COUNCIL**

By _____
Stanley J. Dostatni, President

By _____
President

Heather Garay, Vice President

Kevin Margraf, Member

CONTRACTOR

AFFILIATED LOCAL UNIONS

By _____
Title

Company

Address

Telephone Number

Fax Number

Name of Local Union

By _____
Title

Name of Local Union

By _____
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Ordinance No. 9519

AN ORDINANCE TO REPEAL ORDINANCE 7396 AND AM. ORD. 8370 ALSO KNOWN AS CHAPTER 103 OF TITLE IX OF THE HAMMOND MUNICIPAL CODE AND ADOPT AND ENACT CHAPTER 107 OF TITLE IX OF THE HAMMOND MUNICIPAL CODE RELATING TO RESPONSIBLE BIDDING PRACTICES AND SUBMISSION REQUIREMENTS ON PUBLIC WORKS PROJECTS

WHEREAS, Chapter 103 of the Hammond Municipal Code must now be repealed as it no longer complies with current Indiana law; and

WHEREAS, the City of Hammond is required by law to award public work projects to the "lowest responsive and responsible" bidder; and

WHEREAS, the City of Hammond, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects requires all bidders meet certain minimum requirements in order to be a "responsive and responsible" bidder; and

WHEREAS, I.C. 36-1-12-4(b)(10) and I.C. 36-1-12-4(b)(11) provide factors that the City of Hammond may consider when determining a "responsive and responsible" bidder; and

WHEREAS, the City of Hammond seeks to enhance its ability to identify "responsive and responsible" bidders on all public works construction projects by institution of more comprehensive submission requirements that are in compliance with Indiana State law; and

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will preserve administrative resources by ensuring that only qualified contractors and subcontractors are awarded contracts on public works construction projects; and

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will assure efficient use of taxpayer dollars, will promote public safety, and is in the public interest; and

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will help ensure that no contractor awarded work under this Ordinance or any subcontractor at any tier working on a project awarded pursuant to this Ordinance engages in payroll fraud, including the misclassification of employees as independent contractors to avoid paying state, federal, or local payroll taxes, workers compensation insurance, unemployment insurance premiums, or failing to pay overtime and wages as required by law.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond as follows:

SECTION 00 73 55

This Ordinance, which is entitled "Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on Public Works Projects," is hereby enacted and shall read as follows:

CHAPTER 107: RESPONSIBLE BIDDING PRACTICES AND SUBMISSION REQUIREMENTS

107.01 Bid Submission Requirements

107.02 Post-Bid Submissions from Subcontractors

107.03 Validity of Pre-Qualification Classification

107.04 Incomplete Submissions by Bidders

107.05 Responsive and Responsible Bidder Determination

107.06 Certified Payroll

107.07 Public Records

107.08 Penalties for False, Deceptive, or Fraudulent Statements/Information

107.01 Bid Submission Requirements

Contractors proposing to submit bids on any City of Hammond ("City") public works project estimated to be at least one-hundred fifty thousand dollars (\$150,000.00) or more must, in order to be considered a responsive and responsible bidder per I.C. 36-1-12-4(b)(10) and I.C. 36-1-12-4(b)(11), prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the City and must include:

- A) A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. In lieu of above, the bidder may also submit a current Certificate of Existence issued by the Indiana Secretary of State. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply;
- B) A list identifying all former business names within the last ten (10) years;
- C) Any determinations by a court or governmental agency for violations of business related federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts;
- D) Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization; and

SECTION 00 73 55

evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past three (3) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past three (3) years for each construction craft the bidder will perform on the project. Additional evidence of participation and graduation requirements may be requested by the City at its discretion.

- E) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public works project; and (ii) meets, or exceeds, the requirements set forth in I.C. 4-13-18-5 or I.C. 4-13-18-6.
- F) The name and description of the management experience of the bidder's project general manager or superintendent that bidder intends to assign to work on the project;
- G) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, officer, or manager employed by the bidder;
- H) Evidence that the bidder is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;
- I) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last five years;
- J) A statement that individuals who will perform work on the public works project on behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;
- K) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due; and
- L) For contracts estimated to cost at least three hundred thousand dollars (\$300,000), certification that the bidder and all subcontractors are qualified under I.C. 4-13.6-4 or I.C. 8-23-10.
- M) A provisional written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

The City reserves the right to demand supplemental information from the bidder, additional verification of any of the information provided by the bidder, and may conduct random inquiries of the bidder's current and prior customers.

The City reserves the right to waive any or all of the bid submission requirements when there is an emergency declared, specialized work is required, or for any other situation that would reasonably require waiver.

107.02 Post-Bid Submissions from Subcontractors

Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the City prior to the subcontractor's first day of work on the public works project.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the City. Additionally, the City may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the City written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

107.03 Validity of Pre-Qualification Classification

Upon designation by the City that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the City, the bidder or subcontractor may be pre-qualified for future City public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of pre-qualified standing, on a form provided by the City, (i.e. a "short form") by December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of pre-qualified standing shall result in automatic removal of the designation effective January 1 of the upcoming year. However, the removed bidder or subcontractor shall still be permitted to bid on or perform work on City public works projects.

Any material changes to a contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the City Contractors Board and/or the Building Commissioner. The

pre-qualification designation is solely within the discretion of the City and the City specifically reserves the right to change or revoke the designation for any stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the City Contractors Board within five (5) business days of receipt of notice of denial.

107.04 Incomplete Submissions by Bidders

It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the City shall result in the automatic disqualification of the bid.

107.05 Responsive and Responsible Bidder Determination

After its review of complete and timely submissions, taking into account all information in the submission requirements, the City shall in its sole discretion, determine whether a bidder or subcontractor is responsive and responsible. The City reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by the City through its own independent verification of the information provided.

107.06 Certified Payroll

For projects in which the cost is at least one-hundred fifty thousand dollars (\$150,000), the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to the City upon its request but no later than the date of substantial completion. The City may request the certified payroll within ten (10) calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman, electrician, or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

The City may withhold payment due for work performed by a successful bidder or subcontractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. The City shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or one or more other subcontractors to timely submit their certified payroll reports.

107.07 Public Records

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (I.C. 5-14-3).

107.08 Penalties for False, Deceptive, or Fraudulent Statements/Information

Any bidder or subcontractor that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the City shall be disqualified from bidding or working on all City projects for a period of three (3) years upon a determination by the Board of Contractors.

BE IT FURTHER ORDAINED by the Common Council, if any ordinance or provision of any ordinance in conflict with the provisions of this Ordinance is hereby repealed.

BE IT FURTHER ORDAINED by the Common Council, if any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination; such provisions shall remain in full force and effect.

BE IT FURTHER ORDAINED by the Common Council, that this Ordinance shall be in full force and effect upon signing by the President of the Common Council and approval by the Mayor, and Publication as provided by law.

ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana this 27th day of September, 2021



Dave Woerpe, President
Hammond Common Council

ATTEST:



Robert J. Golec, City Clerk

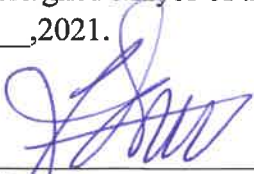
PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City for his approval on the 28th day of September, 2021.



Robert J. Golec, City Clerk
City of Hammond, Indiana

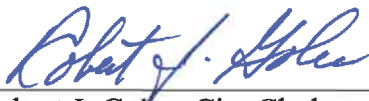
SECTION 00 73 55

The foregoing Ordinance No. 9519 consisting of seven (7) typewritten pages, including this page, was APPROVED AND SIGNED BY ME, the undersigned Mayor of the City of Hammond, Indiana on this 29th day of September, 2021.



Thomas M. McDermott, Jr., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 27th day of September, 2021 and Approved by the Mayor on the 29th day of September, 2021.



Robert J. Golec, City Clerk
City of Hammond, Indiana

CONTRACTOR NOTIFICATION AND FORM
CITY OF HAMMOND
RESPONSIBLE BIDDING ORDINANCE

SECTION 00 73 55

December ____, 2021

Dear Potential Public Works Project Bidder:

As an entity identified as a potential bidder on future City of Hammond public works construction projects, this packet is intended to inform you of the new City Ordinance regarding responsible bidding practices and requirements. This Ordinance complies with new State Statutes regarding public works projects bidding requirements

Effective January 1, 2022, all contractors desiring to bid on any City of Hammond public works projected with a cost estimated to be at least \$150,000.00 must submit a statement made under oath and subject to the penalties for perjury and the following supporting documentation **(NOTE: THE FOLLOWING LIST IS A SUMMARY; FOR DETAILED REQUIREMENTS, PLEASE REFER TO THE ENCLOSED ORDINANCE):**

- A print out of the Indiana Secretary of State's on-line records (dated within 60 days of the submission) reflecting that the prospective bidder exists, is current with all required Business Entity Reports and is eligible for a certificate of good standing **OR** a copy of a current Certificate of Existence from the Indiana Secretary of State;
- Identification of all former business names used with the last 10 years;
- Any determination by a court or governmental agency that the prospective bidder violated any business-related federal, state or local laws;
- Proof of participation in an appropriate apprenticeship training program and evidence that that apprenticeship program has graduated at least five apprentices in each of the past three years;
- A written plan for employee drug testing;
- The name and description of the management experience of the bidder's project general manager or superintendent;
- Proof of any professional or trade license for any trade or specialty area in which the bidder intends to bid as well as disclosure of any suspension or revocation of any such license held by the bidder or certain officers or employees of the bidder;
- Proof that the bidder's surety company is an Approved Surety by the U.S. Department of Treasury;
- Disclosure of any federal, state or local tax liens or tax delinquencies;
- Verification that individuals who will perform work will be properly classified as either an employee or an independent contractor;
- List of projects of similar size and scope that bidder has performed in Indiana within last 3 years;
- Certification that bidder and subcontractors are qualified under applicable State statutes **(contracts over \$300,000.00 only)**;
- Provisional list identifying each subcontractor the bidder intends to employ.

The same information will be required of every subcontractor; however, it will be the responsibility of the successful bidder to submit the appropriate documentation to the City before

Responsible Bidding Practices

SECTION 00 73 55

the subcontractor starts work on the public works project. The City will withhold payment from any subcontractor who fails to submit the required information until the information is submitted to and approved by the City. Also, the City may require the successful bidder to replace a subcontractor.

Once the information submitted by the bidder or subcontractor is considered complete and timely by the City, the City may “pre-qualify” the bidder or subcontractor for bidding on future public works projects. That “pre-qualification” will exempt the bidder or subcontractor from the comprehensive submission requirements; however, in order to maintain that status, the bidder or subcontractor will have to complete an application to maintain its pre-qualified standing by December 31 of each year.

NOTE: The submission of materials to obtain qualification as a “responsive and responsible bidder” and the pre-qualification of any bidder or subcontractor, does not eliminate or replace the successful bidder or subcontractor’s obligation to provide any similar or additional documentation required by the City.

Submissions should be directed to the City’s Building Commissioner who is located in the Inspections Department on the ground floor of Hammond City Hall, 5925 Calumet Avenue, Hammond, Indiana. You are urged to make your submissions as soon as possible in order to have your “pre-qualification” in place for bids on upcoming public works projects.

For your convenience, a copy of the City’s responsible bidding practices ordinance is enclosed, as is a checklist of materials required.

Very truly,

CITY OF HAMMOND

Enclosures: Ordinance
Check list



RESPONSIBLE BIDDER CHECKLIST

CITY OF HAMMOND

PRE-QUALIFICATION FORM

Business
Name

Contact Name

Address

Business
Phone

Cell Phone

Email

PRE-QUALIFICATION REQUIREMENTS

- INDIANA SECRETARY OF STATE ON-LINE RECORDS
- BUSINESS NAMES FOR LAST 10 YEARS
- COURT OR GOVERNMENT AGENCY VIOLATIONS
- EVIDENCE OF APPRENTICESHIP PROGRAM
- WRITTEN EMPLOYEE DRUG TESTING PROGRAM
- MANAGEMENT EXPERIENCE
- NAME OF ASSIGNED GM OR SUPERINTENDENT
- PROOF OF PROFESSIONAL OR TRADE LICENSE
- SURETY COMPANY
- TAX LIENS OR DELIQUENCIES
- STATEMENT OF PROPER JOB CLASSIFICATIONS
- SIMILAR-SIZED PROJECTS
- BIDDER AND SUBCONTRACTORS QUALIFIED UNDER EITHER IC 4-13.6-4 OR IC 8-23-10
- LETTER DISCLOSING SUBCONTRACTOR NAMES, ADDRESSES, WORK TYPES

FORM TO BE FILED AND SUBMITTED WITH THE HAMMOND INSPECTIONS DEPARTMENT
5925 CALUMET AVENUE HAMMOND, IN 46320

Responsible Bidding Practices

PART 7

GENERAL REQUIREMENTS

SECTION 01 11 00

SUMMARY OF WORK

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Work included in Contract Documents
 - 2. Contract Information
 - 3. Work Under Other Contracts
 - 4. Future Work
 - 5. Work Sequence
 - 6. Contractor Use of Premises
 - 7. Occupancy Requirements
 - 8. Products Ordered in Advance
 - 9. Owner Furnished Products
- B. Related Sections:
 - 1. Section 01 33 00 - Submittals
 - 2. Section 01 60 00 – Product Requirements
 - 3. Individual Technical Specifications

1.02 WORK INCLUDED IN CONTRACT DOCUMENTS

- A. Description of the Project:
 - 1. The Work includes patching, milling, placement of HMA wedge and level, and resurfacing of Columbia Ave from 167th Street to Summer Street in the City of Hammond, Indiana.
 - 2. The Owner encourages contractors to provide value engineering to the provided project scope. Ideas for savings in cost, outages, or project duration will be considered on an individual basis.

1.03 CONTRACT INFORMATION

- A. Type of Contract:
 - 1. The Owner will award a Single Prime Contract.
- B. Scope of Contract:

- 1. This Contractor is solely responsible for the Work.
- 2. The Contract will include:
 - a. Contract Forms:
 - 1) Agreement
 - 2) Performance Bond
 - 3) Payment Bond
 - 4) Certificates
 - b. Conditions of the Contract:
 - 1) General Conditions
 - 2) Supplementary Conditions
 - c. Specifications:
 - 1) Division 1 - General Requirements
 - 2) Technical specifications
 - d. Drawings
 - e. Addenda
 - f. Contract Modifications

1.04 WORK UNDER OTHER CONTRACTS

- A. General Requirements:
 - 1. The Owner reserves the right to let other separate contracts for Work of the Project, or to pursue other Work at the Site with its own personnel.
- B. Work Not Included:
 - 1. Work not included is either marked “NIC,” or “by others,” on Drawings or is noted in each section of Specifications. Provide all labor and materials required unless so specifically noted or marked. Install Work indicated to be furnished by others or Owner unless specifically stipulated to be furnished and installed by others or Owner.

1.05 WORK SEQUENCE

- A. Construct Work in stages to accommodate Owner’s requirements during the construction period

1. Coordinate construction schedule and operations with Owner and Engineer:
2. Conform to Site rules and regulations affecting work while engaged in Project construction.
3. Keep existing driveways, crosswalks, adjacent streets clear and available to public in accordance with Owner's or local authority's requirements.
4. Maintain access to Wolf Lake Memorial Park for the general public. Coordinate with Owner.
5. Construction personnel may park only in areas designated by the Owner.

- B. Damaged Property: Do all patching and/or cleaning of existing improvements and correct damage on property on, or adjacent to site occasioned by this work, including, but not limited to, lawns, walks, curbs, pavements, roadways, structures, and utilities which are cut or damaged by operations and are not designated for removal, relocation, or replacement in the course of construction:
1. Public property or utilities: Comply with laws, ordinances, rules, regulations, standards, orders of utility owner or any public authority having jurisdiction
 2. Provide written acceptance of restoration work by authority or owner.

- C. Materials or Equipment: See Section 01 60 10. Confine stockpiling of materials or equipment and locations of storage shed and offices within construction limits. If additional storage is necessary and is not allowed by Owner, obtain and pay for such storage off site.

1.06 CONTRACTOR USE OF PREMISES

- A. General Requirements:
1. Confine operations at Site to areas permitted under contract or as directed by Owner.

1.07 OCCUPANCY REQUIREMENTS

- A. General Requirements:

1. Cooperate with Owner during construction operations to minimize conflict and to facilitate Owner's operations.
2. Contractor shall, at all times, conduct operations to ensure least inconvenience to Owner, other contractors, general public and operation of existing wastewater facility.
3. Coordinate use of premises under direction of Engineer.
4. Assume full responsibility for protection and safekeeping of materials and equipment under this Contract.
5. Obtain and pay for use of additional storage or Work areas needed for operations at no additional cost to Owner.
6. Schedule the Work to accommodate this requirement.

- B. Owner Occupation During Construction:
1. Coordinate activities which could cause interruption to the Owner's activities.

1.08 PRODUCTS ORDERED IN ADVANCE

- A. Storage:
1. Products will be allowed to be stored at the Site prior to commencement of construction activities.

1.09 OWNER FURNISHED PRODUCTS

- A. General Requirements: No items will be furnished by Owner.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 31 13

COORDINATION

PART 1 GENERAL

1.01 SUMMARY

- A. SECTION INCLUDES
 - 1. Coordination by General Contractor
 - 2. Administrative/Supervisory Personnel
 - 3. General Installation Provisions
 - 4. Cleaning and Protection
- B. Related Sections
 - 1. General Conditions, Supplementary Conditions, and Division 1 sections apply to the work of this section.

1.02 COORDINATION BY GENERAL CONTRACTOR

- A. Coordinate scheduling, submittals, and work of the various specification sections to assure efficient and orderly sequence of installation.
- B. Coordinate work of various specification sections having interdependent responsibilities.
- C. Prepare coordination drawings where off-site fabricated products and materials are by separate entities and must accurately interface. Coordination drawings shall indicate how work, shown by separate shop drawings, will interface and shall indicate sequence for installation.
- D. Follow routing shown for pipes as closely as practicable; place runs parallel with street centerline. Utilize space efficiently to maximize accessibility for other installations, maintenance, and repairs.
- E. Coordinate underground work with existing utilities. Call Indiana Underground Plant Protection Services two working days before you dig at 1-800-382-5544.

- F. Coordinate completion and clean up of Work.

1.03 ADMINISTRATIVE/SUPERVISORY PERSONNEL

- A. The CONTRACTOR shall supervise and direct the Work. CONTRACTOR shall employ and maintain a full time, qualified super-visor or superintendent who shall act as the CONTRACTOR's representative at the site.
- B. Provide listing of CONTRACTOR's principal staff assignments and consultants, including name, home and work addresses, and telephone numbers as well as a 24-hour emergency contact telephone number.
- C. Provide supervisor's or superintendent's name, home and work address, and telephone numbers.
- D. Provide names, work address, telephone numbers, samples of signature, and limits of authority of each individual authorized to sign change orders, field modifications, and monthly pay requests for the CONTRACTOR.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 GENERAL INSTALLATION PROVISIONS

- A. Require installers to inspect conditions under which work is to be performed. Installer shall report all unsatisfactory conditions in writing to CONTRACTOR.

Do not proceed with work until unsatisfactory conditions have been corrected.

- B. Where installations include manufactured products, comply with manufacturer's applicable instructions and recommendations for installation to the extent that these instructions and recommendations are more explicit or more stringent than requirements indicated in the Contract Documents. Where manufacturers provide contradictory instructions, notify ENGINEER immediately and request clarifications.
- C. Inspect each item immediately prior to installation. Reject damaged and defective items. The ENGINEER reserves the right to also inspect/reject at that time.
- D. Provide attachment and connection devices and methods for securing work. Secure work true to line and grade, and within recognized industry tolerances. Allow for expansion and movement.
- E. Recheck measurements and dimensions of the work, as an integral step of starting each installation.
- F. Install each element of work during weather conditions and project status to ensure coordination of the Work. Isolate each element of work from incompatible work as necessary to prevent deterioration.
- G. Coordinate backfill of work with required inspections and tests, so as to minimize necessity of uncovering work for that purpose.

3.02 CLEANING AND PROTECTION

- A. During handling and installation, clean and protect work in progress and adjoining work. Apply protective covering on installed work where it is required to ensure freedom from damage or deterioration.
- B. Clean and perform maintenance as frequently as necessary throughout

construction period. Adjust and lubricate operable components to ensure operability without damaging effects.

- C. Supervise performance of the Work to ensure that none of the Work, whether completed or in progress, will be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

END OF SECTION

SECTION 01 31 19

PROJECT MEETINGS

PART 1 GENERAL

1.01 SUMMARY

A. Procedures for Administration of Project Meetings:

1. Preconstruction Conference
2. Progress Meetings
3. Preinstallation Conferences

B. Related Sections:

1. Document 00 21 13 - Instructions to Bidders
2. Section 01 31 13 - Coordination
3. Section 01 33 00 - Submittals

1.02 PRECONSTRUCTION/SITE MOBILIZATION CONFERENCE

A. Scheduled by OWNER at Site after Notice of Award, prior to commencement of construction for:

1. Execution of Owner-Contractor Agreement and exchange of preliminary submittals if not previously completed.
2. Clarification of Owner and Contractor responsibilities in use of the Site and review of administrative procedures.

B. Attendees: Owner, Engineer, Consultants, Contractors, major subcontractors, other concerned parties represented by persons familiar with and authorized to conclude matters relating to Work.

C. Agenda:

1. Items of significance that could affect progress including, but not limited to:
 - a. Submittal of executed bonds and insurance certificates.
 - b. Execution of Owner-Contractor Agreement if not previously completed.
 - c. Distribution of Contract Documents.
 - d. Use of premises by Owner and Contractor:
 - 1) Owner's requirements and occupancy.

- 2) Construction facilities provided by Owner (if any).
- 3) Temporary utilities provided by Owner (if any).
- 4) Use of premises office, work, and storage areas.
- e. Security and housekeeping procedures.
- f. Submittals:
 - 1) Final list of subcontractors, suppliers, products.
 - 2) Schedule of Values.
 - 3) Progress Schedule.
 - 4) Designation of responsible personnel:
 - a) Contractor's principle staff and consultants.
 - b) Contractor's superintendent or job foreman acting as Contractor's Site representative.
 - c) Owner's and Contractor's designated individuals authorized to sign Change Orders, field modifications, and monthly pay requests.
- g. Procedures for processing:
 - 1) Field decisions.
 - 2) Submittals:
 - a) Shop Drawings.
 - b) Product Data.
 - c) Samples.
 - 3) Substitutions.
 - 4) Applications for Payments.
 - 5) Proposal requests.
 - 6) Change Orders.
 - 7) Contract Closeout.
- h. Schedules:
 - 1) Preliminary construction schedule.
 - 2) Critical Work sequencing.
 - 3) Progress meetings.
- i. Procedures for testing.
- j. Procedures for maintaining Record Documents.
- k. Requirements for startup of equipment: Inspection and

- acceptance of equipment put into service during construction period.
- l. Equipment deliveries and priorities.
- m. Contractor responsibilities:
 - 1) Safety procedures.
 - 2) First aid.

- e. Review of submittal schedule and status of submittals.
- f. Review of off-site fabrication and delivery schedules.
- g. Maintenance of progress schedule.
- h. Corrective measures to regain projected schedules.
- i. Planned progress during succeeding Work period.
- j. Coordination of projected progress.
- k. Maintenance of quality and work standards.
- l. Effect of proposed changes on progress schedule and coordination.
- m. Other business relating to Work.

1.03 PROGRESS MEETINGS

- A. Contractor:
 1. Schedule and administer monthly construction progress meetings throughout progress of Work.
 2. Make physical arrangements, prepare agenda and distribute with notice of each meeting to participants and to Engineer, 4 days in advance of meeting date.
 3. Preside at meetings, record meetings and distribute copies (2 to Engineer) within 2 days to participants, and entities affected by decisions at the meetings.
 4. If Contractor does not preside, record, and distribute meeting notes, Engineer will do so at Engineer's standard hourly rate submitted to Owner. An equivalent amount will be deleted from Contract by Work Change Directive.
- B. Attendees:
 1. Contractor, job superintendent, subcontractors and suppliers, other entity concerned with current progress or involved in planning, coordination or performance of future activities; Owner, Engineer, professional consultants as appropriate to agenda.
 2. Attendees shall be familiar with Project and authorized to conclude matters relating to progress.
- C. Agenda:
 1. Items of significance that could affect progress, including topics for discussion as appropriate to current status of Project, minimally:
 - a. Approval of minutes of last meeting.
 - b. Review of Work progress.
 - c. Field observations, problems and decisions.
 - d. Identifications of problems which impede planned progress.

1.04 PREINSTALLATION CONFERENCES

- A. When required in individual specification sections, or as requested by Contractor, convene a preinstallation conference at Site prior to commencing Work of the Section.
- B. Attendees: Require attendance of entities directly affecting, or affected by, Work of the Section, including manufacturer's representative.
- C. Notification: Notify Engineer 4 days in advance of meeting date.
- D. Contractor Duties:
 1. Prepare agenda, preside at conference, record minutes, and distribute copies (2 to Engineer) within 2 days.
 2. If Contractor does not preside, record, and distribute meeting notes, Engineer will do so at Engineer's standard hourly rate submitted to Owner. An equivalent amount will be deleted from Contract by Work Change Directive.
- E. Agenda:
 1. Review conditions of installation.
 2. Review preparation and installation procedures.
 3. Coordinate with related Work.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 33 00

SUBMITTALS

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Description of Requirements
 - 2. Procedures
 - 3. Submittal Preparation
 - 4. Specific Submittal Requirements
 - 5. Construction Progress Schedules
 - 6. Manufacturer's Instructions
 - 7. Schedule of Values
 - 8. Tabulation of Subcontractors
 - 9. Site Video
 - 10. Warranties
 - 11. Action on Submittals
 - 12. Repetitive Review
- B. Related Sections:
 - 1. Section 01 11 00 - Summary of Work
 - 2. Section 01 31 13 - Coordination
 - 3. Section 01 45 00 - Quality Control
 - 4. Section 01 60 10 - Materials and Equipment
 - 5. Section 01 77 00 - Closeout Procedures
 - 6. Section 01 78 37 - Product Warranties
 - 7. Individual Technical Sections

1.02 DESCRIPTION OF REQUIREMENTS

- A. This section specifies procedural requirements for Progress Schedules, Shop Drawings, Product Data, Manufacturers Instructions, samples, warranties and other miscellaneous Work-related submittals.
- B. Work-Related Submittals:
 - 1. Substitution or "Or Equal" Items:
 - a. Includes material or equipment Contractor requests Engineer to accept, after Bids are received, as a substitute for items specified or described in Specifications by using name of a proprietary item or name of particular supplier.

- 2. Shop Drawings:
 - a. Includes technical data and drawings specially prepared for this Project, including fabrication and installation drawings, diagrams, actual performance curves, data sheets, schedules, templates, patterns, reports, instructions, design mix formulas, measurements, and similar information not in standard printed form.
 - b. Standard information prepared without specific reference to the Project is not considered a Shop Drawing.
- 3. Product Data:
 - a. Includes standard printed information on manufactured products, and systems that has not been specially prepared for this Project, including manufacturer's product specifications and installation instructions, catalog cuts, standard wiring diagrams, printed performance curves, mill reports, and standard color charts.
- 4. Samples:
 - a. Include both fabricated and manufactured physical examples of materials, products, and units of work, partial cuts of manufactured or fabricated work, swatches showing color, texture, and pattern, and units of work to be used for independent inspection and testing.
 - b. Mock-ups are special forms of samples which are too large or otherwise inconvenient for handling in manner specified for transmittal of sample submittals.
- 5. Miscellaneous Submittals:
 - a. Work-related submittals that do not fit in the previous categories, such as guarantees, warranties, certifications, experience records, maintenance agreements, Operating and

Maintenance Manuals, workmanship bonds, survey data and reports, physical work records, quality testing and certifying reports, copies of industry standards, record drawings, field measurement data, and similar information, devices, and materials applicable to the Work.

- E. After Engineer review of submittal, revise and resubmit as required, identifying changes made since previous submittal.
- F. Distribute copies of reviewed submittals to concerned persons. Instruct recipients to promptly report any inability to comply with provisions.

1.03 PROCEDURES

- A. Deliver submittals to Engineer at address listed in Project Manual.
- B. Transmit each item under Engineer-accepted form. Identify project, contractor, subcontractor, major supplier; identify pertinent drawing sheet and detail number, and specification section number, as appropriate. Identify deviations from Contract Documents. Provide space for Contractor and Engineer review stamps.
- C. Submit for approval initial progress schedules, a preliminary schedule of shop drawings and samples submittals, and schedule of values, in duplicate, within 10 days after date of Owner-Contractor Agreement and in accordance with Article 2.07 of the General Conditions. After review by Engineer, revise and resubmit as required. Submit revised schedules with each Application for Payment, reflecting changes since previous submittal.
- D. Comply with progress schedule for submittals related to work progress. Coordinate preparation and processing of submittals with performance of work. Coordinate each submittal with other submittals and related activities such as substitution requests, testing, purchasing, fabrication, delivery, and similar activities that require sequential activity. Coordinate submission of interrelated work so that one submittal will not be delayed by Engineer's need to review a related submittal. Engineer may withhold action on any submittal requiring coordination with other submittals until related submittals are forthcoming.

1.04 SUBMITTAL PREPARATION

- A. Stamp and sign each submittal certifying to review of submittal, verification of products, field measurements, field construction criteria, coordination of information within submittal with requirements of the Work and the Contract Documents, coordination with all trades, and verification that product will fit in space provided.
- B. Transmittal Form: In the transmittal for forwarding each specific submittal to the Engineer include the following information as a minimum.
 - 1. Date of submittal and dates of previous submittals containing the same material.
 - 2. Project title and number.
 - 3. Submittal and transmittal number.
 - 4. Contract identification.
 - 5. Names of:
 - a. Contractor
 - b. Supplier
 - c. Manufacturer
 - 6. Identification of equipment and material with equipment identification numbers, model numbers, and Specification section number.
 - 7. Variations from Contract Documents and any limitations which may impact the Work.
 - 8. Drawing sheet and detail number as appropriate.
- C. Resubmittal Preparation:
 - 1. Comply with the requirements described in Submittal Preparation. In addition:
 - a. Identify on transmittal form that submittal is a resubmission.
 - b. Make any corrections or changes in submittals required by Engineer's notations on returned submittal.

- c. Respond to Engineer's notations:
 - 1) On the transmittal or on a separate page attached to Contractor's resubmission transmittal, answer or acknowledge in writing all notations or questions indicated by Engineer on Engineer's transmittal form returning review submission to Contractor
 - 2) Identify each response by question or notation number established by Engineer.
 - 3) If Contractor does not respond to each notation or question, resubmission will be returned without action by Engineer until Contractor provides a written response to all Engineer's notations or questions.
- d. Contractor initiated revisions or variations:
 - 1) On transmittal form identify variations or revisions from previously reviewed submittal, other than those called for by Engineer.
 - 2) Engineer's responsibility for variations or revisions is established in Article 9.06 of the General Conditions.

- 1. Submit newly prepared information, with graphic information at accurate scale. Indicate name of manufacturer or supplier (firm name). Show dimensions and clearly note which are based on field measurement; identify materials and products which are included in the Work; identify revisions. Indicate compliance with standards and notation of coordination requirements with other work. Highlight, encircle or otherwise indicate variations from Contract Documents or previous submittals.
- 2. Include on each drawing or page:
 - a. Submittal date and revision dates.
 - b. Project name, division number and descriptions.
 - c. Detailed specifications section number and page number.
 - d. Identification of equipment, product or material.
 - e. Name of Contractor and Subcontractor.
 - f. Name of Supplier and Manufacturer.
 - g. Relation to adjacent structure or material.
 - h. Field dimensions, clearly identified.
 - i. Standards or Industry Specification references.
 - j. Identification of deviations from the Contract Documents.
 - k. Contractor's stamp, initialed or signed, dated and certifying to review of submittal, certification of field measurements and compliance with Contract.
 - l. Physical location and location relative to other connected or attached material at which the equipment or materials are to be installed.
- 3. Provide 8-inch by 3-inch blank space for Contractor and Engineer stamps.
- 4. Distribution:
 - a. Do not proceed with installation of materials, products or systems until copy of applicable product data showing only approved information is in possession of installer.

1.05 SPECIFIC SUBMITTAL REQUIREMENTS

- A. Specific submittals required for individual elements of work are specified in the individual Specification sections. Except as otherwise indicated in Specification sections, comply with requirements specified herein for each indicated type of submittal.
- B. Requests for Substitutions or "Or Equal"
 - 1. Submit with other scheduled submittals for the material or equipment allowing time for Engineer to evaluate the additional information required to be submitted.
- C. Shop Drawings:

- b. Maintain one set of product data (for each submittal) at Project site.
 - c. Mark 5 additional copies with the date of approval and forward to Engineer for use in field and for Owner's records.
5. Shop Drawings will not be accepted for review by the Engineer until after they have been checked and approved by the Contractor as evidenced by his approval stamp and signature.
 6. Submit the number of opaque reproductions, which Contractor requires, plus 3 copies that will be retained by Engineer.

D. Product Data:

1. Preparation:
 - a. Collect required data into single submittal for each element of work or system. Where product data has been printed to include information on several similar products, some of which are not required for use on Project or are not included in submittal, mark copies to clearly show such information is not applicable.
 - b. Where product data must be specially prepared for required products, materials or systems, because standard printed data are not suitable for use, submit data as a Shop Drawing and not as product data.
 - c. Mark each copy to identify applicable products, models, options, and other data; supplement manufacturers' standard data to provide information unique to the Work.
2. Submittals:
 - a. Submittal is for information and record, and to determine that products, materials, and systems comply with Contract Documents. Submittal is final when returned by Engineer marked "Reviewed" or "Furnish as Corrected".

- b. Submit the number of copies which Contractor requires plus 3 copies which will be retained by Engineer.
3. Distribution:
 - a. Do not proceed with installation of materials, products or systems until copy of applicable product data showing only approval information is in possession of installer.
 - b. Maintain one set of product data (for each submittal) at Project site, available for reference by Engineer and others.
 - c. Mark 5 additional copies with the date of approval and forward to the Engineer for use in field and for Owner records.

E. Samples:

1. Preparation:
 - a. Where possible, provide samples that are physically identical with proposed materials or products to be incorporated into the Work. Where variations in color, pattern or texture are inherent in material or product represented by sample, submit multiple units (not less than 3 units) showing approximate limits of variations.
 - b. Provide full set of optional samples where Engineer's selection is required. Prepare samples to match Engineer's selection where so indicated.
 - c. Include information with each sample to show generic description, source or product name and manufacturer, limitations and compliance with standards.
 - d. Submit samples for Engineer's visual review of general generic kind, color, pattern, texture, and for final check of coordination of these characteristics with other related elements of work.

2. Submittals:
 - a. At Contractor's option, an depending upon nature of anticipated response from Engineer, initial submittal of samples may be either preliminary or final submittal.
 - b. A preliminary submittal, consisting of a single set of samples, is required where specifications indicate Engineer's selection of color, pattern, texture or similar characteristics from manufacturer's range of standard choices is necessary. Preliminary submittals will be reviewed and returned with Engineer's "Action" marking.
 - c. Final Submittals: Submit 3 sets of samples in final submittal, 1 set will be returned.
 3. Distribution:
 - a. Maintain returned final set of samples at Project site, in suitable condition and available for quality control comparisons throughout course of performing work.
 - b. Returned samples intended or permitted to be incorporated in the Work are indicated in Specification sections and shall be in undamaged condition at time of use.
- F. Mock-ups:
1. Mock-ups and similar samples specified in Specification sections are recognized as special type of samples. Comply with samples submittal requirements to greatest extent possible. Process transmittal forms to provide record of activity.
- G. Miscellaneous Submittals:
1. Inspection and Test Reports:
 - a. Classify each inspection and test report as being either "Shop Drawings" or "product data", depending on whether report is specially prepared for Project or standard publication of workmanship control testing at point of production. Process inspection and test reports accordingly.
 2. Guarantees, Warranties, Maintenance Agreements, and Workmanship Bonds:
 - a. Refer to Specification sections for specific requirements. Submittal is final when returned by Engineer marked "Reviewed" or "Furnish as Corrected".
 - b. In addition to copies desired for Contractor's use, furnish 2 executed copies. Provide 2 additional copies where required for maintenance data.
 3. Survey Data:
 - a. Refer to Specification sections for specific requirements on property surveys, building or structure condition surveys, field measurements, quantitative records of actual Work, damage surveys, photographs, and similar data required by Specification sections. Copies will not be returned.
 - 1) Survey Copies: Furnish 2 copies. Provide 10 copies of final property survey (if any)
 - 2) Condition Surveys: Furnish 2 copies.
 4. Certifications:
 - a. Refer to Specification sections for specific requirement on submittal of certifications. Submit 7 copies. Certifications are submitted for review of conformance with specified requirements and information. Submittal is final when returned by Engineer marked "Reviewed".
 5. Closeout Submittals:
 - a. Refer to Specification sections and Section 01 77 00 – Closeout Procedures for specific requirements on submittal of closeout information, materials, tools, and similar items.
 - 1) Record Documents.
 - 2) Materials and Tools: Spare parts, extra and overrun stock, maintenance tools and devices, keys, and similar physical units to be submitted.
 - 3) Operating and maintenance data.

1.06 CONSTRUCTION PROGRESS SCHEDULE

- A. Prepare and submit to Engineer for review, preliminary Construction Progress Schedule in accordance with Paragraph 2.05.A of the General Conditions.
- B. Submit horizontal bar chart with separate bar for each major trade or operation, identifying first workday of each week.
- C. Show complete sequence of construction by activity or operation. Indicated the activities that define the critical path of work to complete the project.
- D. Show projected percentage of completion for each item as of first day of each month.
- E. Delays and Recovery:
 - 1. If, at any time during Project, Contractor fails to complete activity by its latest scheduled completion date, Contractor shall, within 3 working days, submit to Engineer written statement as to how and when Work force will be reorganized to return Contract to current construction schedule.
 - 2. When it becomes apparent from progress evaluation and updated schedule data that milestone completion or Contract completion dates will not be met, Contractor shall take some or all of the following actions:
 - a. Increase construction staffing in such quantities and crafts as shall substantially eliminate backlog of Work.
 - b. Increase number of working hours per shift, shifts per Work day, Work days per week, or amount of construction equipment, or combination of foregoing sufficient to substantially eliminate backlog of Work.
 - c. Reschedule Work items to achieve concurrency of accomplishment.
 - 3. Addition of equipment or construction forces, increasing working hours or other method, manner or procedure to

return to current Construction Progress Schedule will not be considered justification for amending Contract Documents or treated as acceleration.

- F. Submittals:
 - 1. For initial submittal of Construction Progress Schedule and subsequent revisions thereof, submit 8 copies of schedule to Engineer. Failure to submit schedule on timely basis shall be considered cause for withholding progress payments otherwise due under this Contract.

1.07 MANUFACTURER’S INSTRUCTIONS

- A. When required in individual specification section, submit manufacturer's printed instructions for delivery, storage, assembly, installation start-up, adjusting, finishing, in quantities specified for product data.

1.08 TABULATION OF SUBCONTRACTORS

- A. Submit a list of subcontractors who will provide work on the project.
- B. The submitted list shall include:
 - 1. Name of Subcontractor.
 - 2. Address.
 - 3. Type of work to be provided.
 - 4. Contact person

1.09 SITE VIDEO

- A. Provide pre-construction video recording (DVD format) of site and route.
- B. Video to be labeled with date, name of project and location.
- C. Video to be of professional quality. Recorded under the direction of the Contactor and the Engineer.
- D. Project Record videos to be taken of specific subjects as directed by the Engineer.

- E. Provide second (final) video of project after acceptance as directed by the Engineer.

1.10 WARRANTIES

- A. Submit all product warranties in accordance with Section 01 78 37.

1.11 ACTION ON SUBMITTALS

- A. Engineer's Action:

- 1. General:

- a. Except for submittals for record or similar purposes, where action and return on submittals are required or requested, Engineer will review each submittal, mark with appropriate action, and return. Where submittal must be held for coordination, Engineer will also advise Contractor without delay.
- b. Engineer will stamp each submittal with uniform, self-explanatory action stamp, appropriately marked with submittal action.

- B. Action Stamp:

- 1. Reviewed:

- a. Final Release: Where submittals are marked "Reviewed", Work covered by submittal may proceed PROVIDED IT COMPLIES WITH THE CONTRACT DOCUMENTS. Acceptance of work will depend upon that compliance. Review does not extend to quantities, dimensions, fabrication process, construction means or methods, coordination of work or safety procedures. Comments or corrections made do not relieve Contractor from compliance with the Contract Documents.

- 2. Furnished as Corrected:

- a. When submittals are marked "Furnished as Corrected", Work covered by submittal may proceed PROVIDED IT COMPLIES WITH BOTH ENGINEER'S NOTATIONS OR CORRECTIONS ON SUBMITTAL AND WITH

CONTRACT DOCUMENTS.

Acceptance of Work will depend on that compliance. Resubmittal is not required.

- 3. Revise and Resubmit:

- a. When submittals are marked "Revise and Resubmit" do not proceed with Work covered by submittal. Do not permit Work covered by submittal to be used at Project site or elsewhere where Work is in progress.
- b. Revise submittal or prepare new submittal in accordance with Engineer's notations in accordance with Paragraph 1.04C of this section. Resubmit submittal without delay. Repeat if necessary to obtain different action marking.

- 4. Rejected

- a. When submittals are marked "Rejected" do not proceed with Work covered by submittal. Do not permit Work covered by submittal to be used at Project site or elsewhere where Work is in progress.
- b. Revise submittal or prepare new submittal in accordance with Engineer's notations in accordance with Paragraph 1.04C of this section. Resubmit submittal without delay. Repeat if necessary to obtain different action marking.

1.12 REPETITIVE REVIEW

- A. Cost of Subsequent Reviews: Shop Drawings and Operation and Maintenance Manuals submitted for each item will be reviewed no more than twice at the Owner's expense. All subsequent reviews will be performed at times convenient to the Engineer and at the Contractor's expense based upon the Engineer's then prevailing rates including all direct and indirect costs and fees. Reimburse the Owner for all such fees invoiced to the Owner by the Engineer.
- B. Time Extension: Any need for more than one resubmission, or any other delay in

Engineer's review of submittals, will not entitle Contractor to extension of the Contract Time.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 45 00

QUALITY CONTROL

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. General Quality Control
- B. Workmanship
- C. Manufacturer's Instructions
- D. Manufacturer's Certificates
- E. Manufacturer's Field Services
- F. Testing Laboratory Services

1.02 RELATED SECTIONS

- A. Section 01 31 13– Coordination
- B. Section 01 42 19 - Reference Standards
- C. Section 01 33 00 – Submittals
- D. Individual Technical Sections

1.03 QUALITY CONTROL, GENERAL

- A. Maintain quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.

1.04 WORKMANSHIP

- A. Comply with industry standards except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
- B. Perform work by persons qualified to produce workmanship of specified quality.

- C. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, and racking.

1.05 MANUFACTURER'S INSTRUCTIONS

- A. Comply with instructions in full detail, including each step in sequence. Should instructions conflict with Contract Documents, request clarification from Engineer before proceeding.

1.06 MANUFACTURER'S CERTIFICATES

- A. When required by individual Specification Sections, submit manufacturer's certificate, in duplicate, that products meet or exceed specified requirements.

1.07 MANUFACTURER'S FIELD SERVICES

- A. When specified in respective Specification Sections, require supplier or manufacturer to provide qualified personnel to observe field conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust and balance of equipment as applicable, and to make appropriate recommendations.
- B. Supplier or manufacturer's representative shall submit written report to Engineer listing observations and recommendations.

1.08 TESTING LABORATORY SERVICES

- A. OWNER will employ and pay for services on an Independent Testing Laboratory to perform specified services and testing. CONTRACTOR will not be required to perform, employ or pay for on-site testing.
- B. CONTRACTOR shall cooperate with the laboratory to facilitate the execution of its

required services. Employment of the laboratory shall in no way relieve CONTRACTOR's obligations to perform the Work of the Contract.

C. The Testing Laboratory is not authorized to:

1. Release, revoke, alter or enlarge on requirements of Contract Documents.
2. Approve or accept any portion of the Work.
3. Perform any duties of the CONTRACTOR.

D. CONTRACTOR's Responsibilities:

1. Cooperate with laboratory personnel, provide access to Work, to manufacturer's operations.
2. Secure and deliver to the laboratory adequate quantities of representational samples of materials proposed to be used and which require testing.
3. Provide to the laboratory the preliminary design mix proposed to be used for concrete, and other material mixes which require control by the testing laboratory.
4. Furnish copies of products test reports as required.
5. Furnish incidental labor and facilities:
 - a. To provide access to work to be tested.
 - b. To obtain and handle samples at the Project site or at the source of the product to be tested.
 - c. To facilitate inspections and tests.
 - d. For storage and curing of test samples.
6. Notify laboratory sufficiently in advance of operations to allow for laboratory assignment of personnel and scheduling of tests.
 - a. When tests or inspections cannot be performed after such notice, reimburse OWNER for laboratory personnel and travel expenses incurred due to CONTRACTOR's negligence.

7. Make arrangements with laboratory and pay for additional samples and tests required for CONTRACTOR's convenience.
8. Employ and pay for the services of separate, qualified, independent testing laboratory to perform additional inspections, sampling and testing required when initial tests indicate work does not comply with Contract Documents.

E. Manufacturer's Field Services and Reports

1. When specified in individual specification Sections, require material or Product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust, and balance of equipment as applicable, and to initiate instructions when necessary.
2. Individuals to report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturer's written instructions.
3. Submit report in triplicate within 30 days of observation to ENGINEER for review.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 51 00

TEMPORARY UTILITIES

PART 1 GENERAL

1.01 SUMMARY

- A. Temporary utility services including, but not limited to:
1. Temporary utility services and facilities.
 2. Construction water.
 3. Water service.
 4. Electric power service.
 5. Lighting.
 6. Telephone service.
 7. Heat.
 8. Storm and sanitary sewer.
 9. Sanitary facilities.

1.02 REFERENCES

- A. American National Standards Institute (ANSI) - A10 Series Safety Requirements Standards
- B. Factory Mutual Engineering & Research Corporation (FM)
- C. National Electrical Contractors Association (NECA) - NJG-6 - Temporary Job Utilities and Services
- D. National Electrical Manufacturer's Association (NEMA).
- E. National Fire Protection Association (NFPA):
1. 70 - National Electrical Code.
 2. 241 - Safeguarding Construction, Alteration, and Demolition Operations.
- F. Underwriter's Laboratory (UL).

1.03 QUALITY ASSURANCE

- A. Comply with requirements of local laws and regulations governing construction and local industry standards, in the installation and maintenance of temporary utility services.

- B. Comply with requirements of NECA NJG-6, NFPA 241, ANSI A10 Series Standards.
- C. Comply with applicable NEMA, NECA, and UL standards and governing regulations for materials and layout of temporary electric service.
- D. Where local laws and regulations conflict with the requirements of NEMA, NFPA, ANSI, or NECA, comply with the most stringent requirements.

PART 2 PRODUCTS

2.01 MATERIALS AND EQUIPMENT

- A. Provide all required materials and equipment for temporary services and facilities.
- B. Used materials and equipment may be used, if acceptable to ENGINEER.
- C. Provide only materials and equipment that are suitable for intended use and comply with appropriate standards.

2.02 UTILITIES

- A. Where local utility company provides only a portion of temporary utility, provide remainder with matching, compatible materials and equipment. Comply with utility company's recommendations and requirements.

PART 3 EXECUTION

3.01 INSTALLATION

- A. Provide each temporary service and facility ready for use at each location when service or facility is first needed.

- B. Locate temporary utilities where they will serve Project and result in minimum interference with performance of the Work.
- C. Maintain, relocate, modify, and extend utilities as required during course of Work.
- D. Use qualified tradepersons for installation of temporary utilities.

3.02 UTILITY INSTALLATION

- A. Coordinate with Utility Companies:
 1. Determine requirements, time constraints, etc. for installing temporary service to the Site, or to make connections to existing service.
 2. Arrange with utility companies for service interruption, where necessary, to make connections for temporary services.

3.03 CONSTRUCTION WATER

- A. Contractor will pay for water used for construction purposes.
- B. Secure water necessary for construction and testing and pay service connection charges.
- C. Install water service and distribution piping of sizes and pressures adequate for construction purposes.
- D. Where available supply of potable water is inadequate, provide non-potable water for purposes other than drinking and washing.
- E. Where non-potable water is used, provide warning signs on the discharge end of each length of hose and at the shut-off nozzles.
- F. Where shut-off nozzles are used at water hose discharge, provide heavy-duty abrasion-resistant hoses with a pressure rating greater than the maximum pressure of the water distribution system.
- G. Trades needing a larger source of water are responsible for the source and distribution.
- H. Exercise control over usage to conserve water.

- I. Sterilize temporary water piping for potable water prior to use.
- J. Maintain distribution system to avoid damage to existing or new construction.
- K. Avoid damage to permanent plumbing at source of temporary water.

3.04 ELECTRIC POWER SERVICE

- A. Provide a weatherproof, grounded temporary electric power service and distribution system of sufficient size, capacity, and power characteristics to accommodate performance of Work.
- B. Contractor shall pay for electricity used for construction purposes.
 1. Electrical service shall be provided and installed by Contractor.
 2. Any Trade requiring power with different characteristics than provided shall arrange and pay for access to such power.
- C. When permanent power and lighting systems are in operation, they may be used for construction purposes.
- D. Whenever an overhead floor or roof deck has been installed, install temporary lighting adequate to provide sufficient illumination for safe work and traffic conditions in area of Work.
- E. Install service and grounding in compliance with NFPA 70. Include necessary meters, transformers, overload protected disconnect, and main distribution switch gear.
- F. Connect temporary service to local electric power company main as directed by electric company officials.
- G. Install temporary service with an automatic ground-fault interrupter feature, activated from circuits of the system.
- H. Install circuits of adequate size and proper characteristics for each use.
 1. Run wiring overhead and rise vertically where wiring will be least exposed to damage from construction operations.

2. Install rigid steel conduit or equivalent raceways for wiring that must be exposed on grade, floors, decks, or other areas of possible damage or abuse.

- I. Provide identification/warning signs at power outlets that are other than 110 to 120 volt power.
- J. Provide polarized outlets for plug-in type outlets, to prevent insertion of 110 to 120 volt plugs into higher voltage outlets.
- K. Provide receptacle outlets equipped with ground-fault circuit interrupters, reset button and pilot light, for plug-in connection of power tools and equipment.
- L. Use only grounded extension cords.
 1. Use "hard-service" cords where exposed to abrasion and traffic.
 2. Use single lengths or waterproof connectors to connect separate lengths of electric cords.

3.05 LIGHTING

- A. Install local switching of temporary lighting, spaced to allow lighting to be turned off in patterns to conserve energy and retain light suitable for work-in-progress, access traffic, security check, and Project lock-up.
- B. Provide not less than one 200-watt incandescent lamp per 1,000 square feet of floor area, uniformly distributed, for general construction lighting, or equivalent illumination of a similar nature.
 1. In corridors and similar traffic areas, provide not less than one 100-watt incandescent lamp every 50 feet.
 2. In stairways and at ladder runs, locate not less than one 100-watt incandescent lamp for illuminating each landing and flight.
- C. Install and operate temporary lighting that will fulfill security and protection requirements, without the necessity of operating entire temporary lighting system.
- D. Provide general service incandescent lamps of wattage required for adequate illumination.

- E. Protect lamps with guard cages or tempered glass enclosures.

3.06 TELEPHONE SERVICES

- A. Contractor shall maintain and pay for telephone (and fax machine, if required) on Site for use of Contractors, Engineers, Architect, and others who have legitimate need for telephone communication in pursuit of Work of this Project.
- B. Arrange for local telephone company to install temporary service. Install telephone on a separate line for each temporary office and first aid station.
- C. At each telephone location post a list of important telephone numbers, including:
 1. Local police and fire departments.
 2. Doctor.
 3. Ambulance service.
 4. Contractor's offices.
 5. ENGINEER's offices.
 6. Subcontractor's offices.

- D. Long distance calls are to be included.

- E. Provide high speed internet access.

3.07 HEAT

- A. Provide temporary heat for performance of the Work, curing or drying of recently installed work, or protection of work-in-place from adverse effects of elements.
- B. Provide temporary heating units, tested and labeled by UL, FM, or other recognized trade association related to the fuel being consumed.
- C. Select units known to be safe and without deleterious effect upon work-in-place or being installed.
 1. Except where conditions make it necessary to use another system, and where use of the permanent heating system is available and authorized by Engineer, provide properly vented self-contained liquid propane gas or fuel oil heaters with individual space thermostatic controls for temporary heat.

- D. Coordinate ventilation requirements to produce indicated ambient condition required, to prevent accumulations of dust, fumes, vapors or gases, and to minimize consumption of fuel or energy.
- E. Coordinate use of existing facilities with Owner.
- F. Temporary heating and ventilation required by Work under Contract shall be provided and paid by Contractor requiring same.
- G. Extend and supplement with temporary units as required to maintain specified conditions for construction operations, and to protect materials and finishes from damage due to temperature or humidity.
- H. After Enclosure:
 1. Owner will allow installation and use of permanent heating system for temporary heat after building is weather-tight and concrete floor slabs have been poured.
 2. Cost of temporary heat after enclosure shall be borne by Contractor.
 - a. Contractor shall install new filters at time of Substantial Completion.
- I. Maintain a minimum temperature of 50 degrees in permanently enclosed portions of the structures and areas where finished Work has been installed.

3.08 SEWERS AND DRAINAGE

- A. If existing sewers are available for temporary drainage near Site prior to completion of permanent sewers, provide temporary connections to remove effluent that can be lawfully discharged into sewers.
 1. If existing sewers cannot be used for discharge, provide drainage ditches, dry wells, waste stabilization ponds, and similar discharge facilities to remove effluent that can be lawfully discharged in that manner.
 2. If neither existing sewers nor drainage facilities can be lawfully used for discharge of effluent, provide containers to remove and dispose of effluent off-site in a lawful manner.

- B. Before discharge of liquid wastes into sewers or drainage facilities, filter out excessive amounts of soils, construction debris, chemicals, oils, and similar contaminants that might clog sewers or pollute waterways.
- C. Provide temporary filter beds, settlement tanks, separators, and similar devices to purify effluent.
- D. Maintain temporary sewers and drainage facilities in a clean, sanitary condition.
- E. Provide and maintain temporary earthen embankments and similar barriers in and around construction excavations and subgrade construction, sufficient to prevent flooding.

3.09 OPERATION, TERMINATION, AND REMOVAL

- A. Enforce strict discipline in use of temporary services and facilities at the Site.
 1. Limit availability of temporary services and facilities to essential and intended uses to minimize waste and abuse.
 2. Do not permit temporary installations to be abused or endangered.
 3. Do not allow hazardous, dangerous, or unsanitary conditions to develop or persist on Site.
- B. Operate temporary services and facilities in a safe and efficient manner.
 1. Do not overload temporary services or facilities.
 2. Protect from damage by freezing temperatures and similar elements.
 3. Prevent water-filled piping from freezing by use of ground covers, insulation, draining, or by temporary heating.
 4. Maintain distinct markers for underground lines.
 5. Protect from damage during excavation operations.
- C. Unless ENGINEER requests that it be maintained for a longer period of time, remove each temporary service and facility promptly when no longer needed, when it has been replaced by the authorized use of a

permanent facility, or no later than Substantial Completion.

- D. Complete or restore permanent Work which may have been delayed because of interference with temporary service or facility.
- E. Repair damaged Work, clean exposed surfaces, and replace Work which cannot be satisfactorily repaired.
- F. Materials and facilities that constitute temporary services and facilities are, and will remain, the property of Contractor.
- G. At Substantial Completion, clean and renovate permanent services and facilities that have been used to provide temporary services and facilities during construction, including but not limited to:
 - 1. Replace air filters and clean inside of ductwork and housings.
 - 2. Replace significantly worn parts and parts that have been subject to unusual operating conditions.
 - 3. Replace lighting system lamps that are burned out or noticeably dimmed.

END OF SECTION

SECTION 01 51 36

TEMPORARY WATER

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Availability of Water for Construction

1.02 DESCRIPTION

- A. Contact Hammond Water Department office to identify source of water for construction, reserve a temporary hydrant meter and follow Hammond Water Department requirements including backflow prevention.
- B. Pay hydrant meter deposit.
- C. OWNER will establish rates and conditions.
- D. Water shall be obtained from available metered fire hydrants.
- E. Piping and fittings shall be the responsibility of the Contractor.
 - 1. Keep water use to a minimum and consistent with needs.
- F. Costs for temporary water shall be considered incidental.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 52 13

FIELD OFFICE

PART 1 GENERAL

1.01 SUMMARY

- A. Section includes furnishing and maintaining field office for use by Contractor, subcontractors, and ENGINEER during construction operations.
- B. Related Sections:
 - 1. Section 01 11 00 - Summary of Work
 - 2. Section 01 51 00 - Temporary Utilities
 - 3. Section 01 71 14 - Mobilization
- C. Basis of Payment: Incidental to Mobilization.

1.02 DESCRIPTION

- A. Basic Requirements:
 - 1. Portable or mobile buildings, or buildings constructed with floors raised above ground, securely fixed to foundations, with steps and landings at entrance doors.
 - 2. Minimum 8-foot wide and 7-foot ceiling height.
 - 3. Minimum 120 square feet of usable space for ENGINEER.
 - 4. Weatherproof and insulated.
 - 5. Finished interior walls.
 - 6. Heating and air conditioning system: See Section 01 51 00.
 - 7. Telephone service: See Section 01 51 00.
 - 8. Electrical service: See Section 01 51 00.
 - 9. Lighting: 50-foot C at desktop height and exterior lighting at entrance doors.
 - 10. Internet access.
- B. Furnishings:
 - 1. Desk and chair.
 - 2. Flat surface large enough to examine Construction Documents.
 - 3. Drawing rack.
 - 4. Conference table and chairs to seat at least 6 persons.
 - 5. Telephone.
 - 6. Answering machine.
 - 7. Computer.
 - 8. Wastebasket.

- 9. Potable water supply.
- 10. Fire extinguisher.
- 11. Six adjustable-band protective helmets for visitors.
- 12. One 10-inch diameter outdoor weather thermometer.

1.03 LOCATION

- A. Locate to provide convenient access to construction Site and as provided on Drawings or determined in field by ENGINEER.
- B. Subject to Owner's approval.
- C. Existing facilities shall not be used for field offices.

1.04 SCHEDULE

- A. Provide facility and services upon commencement of construction or within 10 days after date fixed in Notice to Proceed.
- B. Remove building, utilities, and foundation upon completion and acceptance of Work. Restore area.

1.05 MAINTENANCE

- A. Maintain, clean, and repair field office and services to ensure proper working order throughout the duration of construction operations.
- B. Maintain approach walks free of mud, water, and snow.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 52 19

TEMPORARY SANITARY FACILITIES

PART 1 GENERAL

1.01 GENERAL

- A. Provide temporary closet or privy.
- B. Provide adequate supply of fresh, clean potable water for washing, with adequate soap and towels.
- C. Maintain throughout project duration.
- D. Type and location subject to Engineer's approval.
- E. Remove upon completion of project.
- F. Costs for Temporary Sanitary Facilities shall be considered incidental.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 55 25

MAINTENANCE OF TRAFFIC

PART 1 GENERAL

1.01 SUMMARY

- A. Temporary procedures and equipment for safely maintaining and controlling traffic within and near Site during construction.
- B. Related Sections:
 - 1. Individual Technical Specifications
- C. Method of Measurement:
 - 1. Measure all required procedures and equipment on a Lump Sum basis, except as otherwise noted.
 - 2. Procedural and equipment revisions resulting from minor changes or field adjustments will be considered incidental.
- D. Basis of Payment:
 - 1. Payment for temporary maintenance of traffic shall be at the Contract Unit Price as listed on the Bid Form. All associated Work items shall be considered incidental.
 - 2. Progress payment amounts will be determined by percentage of total Work completed based on the following schedule:

Percent of Contract Completed	Percent of Item Paid
5	15
25	40
50	70
75	90
100	(Final) 100

1.02 REFERENCES

- A. AASHTO - Roadside Design Guide
- B. ANSI/ISEA 107 - 2004 Standard for Protective Clothing

- C. INDOT:
 - 1. 801 – Traffic Controls for Construction and Maintenance Operations
- D. Indiana Manual on Uniform Traffic Control Devices (IN MUTCD)

1.03 DEFINITIONS

- A. Long-term Temporary Traffic Control Zone: Any temporary traffic control zone that occupies a location more than 3 days.
- B. Intermediate-term/Night Temporary Traffic Control Zone: Any temporary traffic control zone that occupies a location during hours of darkness or up to 3 days.
- C. Short-term Temporary Traffic Control Zone: Any temporary traffic control zone that occupies a location greater than 15 minutes during daylight hours.

1.04 SUBMITTALS

- A. Preconstruction:
 - 1. Traffic Control Plan.
 - 2. Names, addresses, and phone numbers of 2 local persons who will respond to requests for maintenance.
- B. At least 7 days prior to construction and upon request, present all traffic control devices intended for use on the Project to Engineer to ensure conformance with IN MUTCD and INDOT Standard Signs.

1.05 QUALITY ASSURANCE

- A. Permits: Obtain necessary permits from INDOT, counties, and cities to allow for signing, barricading, and Work within rights-of-way as necessary to complete Project.
- B. Operations: Conduct all operations in accordance with the IN MUTCD and Field Manual.

- C. Flaggers:
 1. Contractor shall furnish flagpersons as required to adequately control traffic. Flagpersons shall conform to the requirements set forth in the IN MUTCD.
 2. Flagpersons shall wear high visibility retroreflective safety vests, pants, and hats at all times while actively flagging on the Project. High visibility apparel shall comply with current OSHA Rules.
 3. Contractor shall provide 2-way radios for flagpersons.
 4. Flagperson shall have a STOP/SLOW sign with a 5-foot minimum staff.
 5. Flaggers shall not override in-place signals, stop signs, or control interchanges. Only law enforcement officials are permitted to control these items.

1.06 DESIGN REQUIREMENTS

- A. Maintain traffic on in-place, temporary or permanent roadway, or a combination of these.
- B. Access to individual properties fronting a roadway under construction may be maintained on in-place or permanent roadway, or via an Engineer-approved gravel surface.
- C. Provide and maintain proper signing, flagpersons (as appropriate) and warning devices in order to:
 1. Close or restrict traffic on a roadway.
 2. Provide adequate detour information.
 3. Protect Work, workers, and motorists.
 4. Be consistent with requirements of "Detour Plan" enclosed in Drawings.
 5. Inform motorists of pending construction and direct motorist through Work zone.
- D. Lanes:
 1. Minimum 12 feet.
 2. Continuous throughout Project, and may be adjacent to each other or separated.

1.07 SEQUENCING AND SCHEDULING

- A. Closure and Detour Requests:
 1. Submit request for short-term lane closure to City of Hammond at least 7 days prior to time of closure.
 2. Submit request to close street and divert traffic to City of Hammond at least 7 working days prior to time of closure.
 3. Authority to divert or close shall be subject to City of Hammond's approval.
 4. Contact proper agency and Engineer at least 72 hours prior to restricting traffic on roadways scheduled for short-term lane closures only.
- B. Advance Notice:
 1. Provide minimum 72-hour notice for all road closures and detours to the following:
 - a. Engineer
 - b. Hammond Board of Public Works
 - c. Hammond City Engineer
 2. Notify proper railroad agency a minimum of 48 hours prior to beginning any Work at or adjacent to railroad property.
 3. Provide minimum 48-hour notice for all road closures and detours to all affected residences and businesses, showing when closures and detours will occur and duration expected.
 4. Meet with businesses affected by each restriction of access and coordinate Work to allow for deliveries to be made to each affected business during construction.
- C. Restrictions:
 1. Work which interferes with traffic operations shall not be performed during the following times:
 - a. From 6:00 a.m. to 8:00 a.m. - Monday thru Friday inclusive.
 - b. From 4:00 p.m. to 6:00 p.m. - Monday thru Friday inclusive.
 - c. From 12:00 noon on day before to 9:00 a.m. on day following any consecutive combinations of Saturday, Sunday, and legal holiday.
 2. Inclement Weather: Lane closures will not be permitted during inclement weather or when Engineer determines such closure will be a hazard to traffic.

3. Nighttime Work, approved in advance by Engineer:
 - a. Provide adequate lighting as necessary to supplement or replace existing street lighting so Work, personnel, equipment, traffic control devices, and flaggers are visible to motorists.
 - b. Workers shall wear reflectorized jumpsuits during nighttime construction.
4. Railroads: No Work shall be done on railroad property without the proper railroad agency approval, permit, and notification.
5. Do not close or restrict traffic on 2 adjacent parallel streets at the same time.
6. Traffic may be restricted on any street requiring milling, miscellaneous roadwork, and/or surfacing, subject to the following:
 - a. Local traffic shall be maintained during edge milling operations.
 - b. ROAD WORK AHEAD signs shall be placed in advance of milling operations and flagpersons provided as necessary to guide traffic through construction area.
 - c. Streets may be closed or have access restricted to traffic for full-width milling and for surfacing, consistent with hours specified, or local traffic may be maintained consistent with above provisions.
 - d. Coordinate milling, miscellaneous roadwork and surfacing with street reconstruction to afford local residents access to the vicinity of their homes.
 - e. Drop-offs where traffic will cross from or to the in-place surface, or from or to the milled surface, shall be tapered and/or chamfered so as to provide for safe passage of traffic.
 - f. ROUGH ROAD AHEAD and BUMP signs shall be placed at locations determined by Engineer after milling operations have been completed.
 - g. Do not mill any notches for surfacing tapers until immediately prior to paving, except that, as approved by Engineer, notches may

be milled if a temporary bituminous taper is installed and maintained until surfacing taper is installed.

7. The previous restrictions may be modified as necessary to ensure safe traffic operations.

1.08 TRAFFIC CONTROL PLAN

- A. Submit an overall Traffic Control Plan for approval within 10 days after award of Contract and 5 days prior to initiating any construction.
- B. As construction progresses, provide on a weekly basis an updated Traffic Control Plan to Engineer, for approval and suggested modifications, covering the following 2 weeks of Work. Plan will reflect the instructions specified and will include:
 1. Planned sequence of construction operations.
 2. Proposed street closures or restrictions and estimated dates.
 3. Provisions for routing detoured traffic.
 4. Signs and devices to be used.
- C. Acceptance: Each Traffic Control Plan is subject to acceptance, rejection or suggested revision by Engineer.
- D. Revisions: Revisions to Traffic Control Plan are subject to approval of Engineer.
- E. No construction operations may begin without complete approval of the Plan.
- F. Final Bituminous Course:
 1. A separate plan for traffic control may be prepared for installation of the final bituminous binder and wear courses.
 2. Plan does not have to adhere to above restrictions, but shall be prepared in detail and submitted to Engineer for approval.
 3. Engineer will determine viability of planned sequence and may accept, reject, or suggest alterations to this separate plan.
 4. Do not begin installation of final bituminous binder and wear course, crosswalks, or pavement markings without complete approval of this separate plan by Engineer, or without

inclusion of these elements in the above-referenced sequence of construction.

1.09 CONTRACTOR REQUEST FOR DETOUR

- A. Contractor may request through traffic be detoured consistent with provisions and restrictions specified.
- B. Request shall contain information needed to justify request and select routes to be established.
- C. If arrangements can be made that are satisfactory to agencies having jurisdiction over roads to be used, contracting authority may then, at its sole discretion, establish an approved detour subject to the following conditions. Contractor, at Contractor's expense, shall:
 - 1. Design, provide, install, maintain, and remove all necessary traffic control devices on detour roads.
 - 2. Reimburse Owner for all expenses incurred in maintaining and restoring detour roads, except for snow removal.
 - 3. Fulfill their obligations for maintenance of local traffic by furnishing, placing, and maintaining traffic control devices and other traffic protection measures required on roads undergoing improvements.

1.10 WINTER SUSPENSION

- A. Make passable and open road to traffic during periods of authorized winter suspension to eliminate need to maintain detours.
- B. When Work is resumed after winter suspension, Contractor shall replace or renew any Work lost or damaged during suspension, and shall remove, to the extent directed by Engineer, any temporary construction or materials used in maintenance thereof.
- C. When winter suspension results from an extension of Contract Time due to fault or negligence on the part of Contractor, Contractor shall not suspend operations until roads or temporary facilities which are being

used by traffic are in such condition that only routine maintenance will be required to adequately accommodate through and local traffic during the anticipated period of suspension. In this instance, all maintenance of roads, temporary facilities, as well as traffic control devices will be Contractor's responsibility and will be classified as incidental Work.

1.11 INSPECTION AND MAINTENANCE

- A. Maintain traffic control devices on a 24-hour basis throughout term of the Contract, including Work suspensions.
 - 1. Repair or replace as necessary:
 - a. Devices that are damaged or moved.
 - b. Lights that cease to function properly.
 - c. Barricade weights that are damaged or fail to stabilize barricade.
- B. Inspection:
 - 1. Check devices twice daily, including end of workday.
 - 2. Conduct 1 night (after work hours) inspection of devices each week.
 - 3. Immediately correct deficiencies in alignment visibility and reflectivity.
- C. Traffic Control Checklist:
 - 1. Complete attached checklist each day of each week that traffic control devices are used on Project.
 - 2. Submit completed checklist to Engineer or designated representative each day at a mutually agreeable time.
 - 3. Failure to submit checklist by agreed-upon time will be considered "noncompliance" in maintaining traffic control devices and may be subject to daily charge.
 - 4. Additional copies of the traffic control devices checklist will be available from Engineer.
- D. Notice:
 - 1. Furnish names, addresses, and phone numbers of 2 local persons who will respond to requests for maintenance to the following:
 - a. Engineer.
 - b. City of Hammond Police Department.

- c. City of Hammond Public Works Department.
 - d. INDOT Dispatcher.
 - e. Lake County Highway Department.
- E. Provide a means of receiving maintenance requests on a 24-hour basis.
- F. Respond to maintenance requests within 2 hours. Failure to respond to maintenance requests will result in Work being completed by Owner with twice the cost thereof being deducted from any monies due Contractor.

PART 2 PRODUCTS

2.01 EQUIPMENT

- A. Signs:
1. Provide required signs in accordance with IN MUTCD, and INDOT Standard Signs and Drawings, and as approved by Engineer.
 2. Retroreflective Sheeting:
 - a. Fabricate all temporary rigid orange warning and rigid orange guide signs with either Type HP FLO (High Performance Fluorescent Sign Sheeting for Rigid Temporary or Permanent Signs) or Sign Sheeting for Rigid Temporary Fluorescent Orange Signs, and Markers (Type IX FLOW).
 - b. Fabricate all rigid signs installed, other than those with orange backgrounds, on a temporary basis with Type HP (High Performance Sheeting for Rigid Permanent Signs) or Sign Sheeting for Rigid Permanent Signs, Delineators, and Markers (Type IX).
 - c. Inplace signs that still apply during temporary operations may remain in place with no change in sign sheeting required.
 3. Advance Signing Notice: Provide 10 calendar days advance signing notice, as follows:
 - a. Closure notice (G20-X1) signs on road to be closed to traffic.
 - b. Work Zone Advance notice (G2-X2) signs where noted in Section 3.01.

- c. Alternatives to sign G20-X2 will be allowed if approved by Engineer.
4. Size, legend, and layout of signs shall be approved by Engineer prior to sign manufacture.
- B. Barricades:
1. Provide 8-foot, Type III barricades in accordance with current INDOT Standards.
 2. Provide at least 1 Type III barricade in a closed lane for every 1,000 feet of lane closure.
- C. Barriers: Provide temporary portable precast concrete barriers in accordance with current INDOT Standards.
- D. Channelizing Devices: Provide channelizing devices in accordance with IN MUTCD.
- E. Ballast:
1. Sandbags will be the only acceptable weight to stabilize traffic control devices.
 2. During freezing conditions, mix sand for bags and impact barrels with a deicer to prevent sand from freezing.
 3. Place sandbags on each foot of traffic control device as needed to be stabilized.
- F. Extra Materials:
1. In addition to traffic control devices approved by Engineer prior to each stage of construction, or as shown in Traffic Control Drawings, Engineer may require more traffic control as traffic conditions warrant.
 2. Store the following at a convenient location within Project limits of each portion of Project for use in an emergency, as approved by Engineer:
 - a. Minimum of 2 extra Type I barricades with flashers.
 - b. Minimum of 2 extra Type III barricades.
 - c. Minimum of 5 extra drums.
 3. No direct compensation will be made for furnishing, storing, and erecting these traffic control devices.

- G. Flashing Arrow Boards: Provide in accordance with IN MUTCD, and INDOT Standards.
- H. Pavement Markings: Provide pavement markings in accordance with IN MUTCD and INDOT Standards.

PART 3 EXECUTION

3.01 SCHEDULE OF WORK

- A. Maintain 1 lane of traffic in each direction at all times, unless a short-term lane closure has been approved by Engineer.
- B. Maintain access to individual residences and businesses fronting roadways at all times, unless otherwise approved by affected property owner and Engineer.

3.02 PREPARATION

- A. Flagpersons: Utilize flagpersons on any roadway that is restricted to 1 lane of traffic, except as approved by Engineer.
- B. Conduct operations to allow continual fire and police access to all areas within Project.
- C. Inplace Facilities:
 - 1. Signs:
 - a. Do not remove signs unless authorized by Engineer.
 - b. Carefully remove and store designated signs and posts for reinstallation.
 - c. Replace signs and posts damaged or lost during removal or construction.
 - d. Carefully remove and deliver signs and posts to appropriate agency (INDOT, City of Hammond, Lake County) as directed by Engineer.
 - e. Provide flaggers as directed when "STOP" or other prohibition signs are removed.
 - f. Relocate or temporarily mount and maintain required regulatory, warning, guide, and street name signs along streets that remain open to traffic.

- g. Reinstall all signs not being replaced in accordance with IN MUTCD and INDOT Standards.
- 2. Mailboxes:
 - a. Prior to proceeding with any Work, relocate any mail and other delivery boxes within construction area and as designated by Engineer, to a location that will allow delivery during construction.
 - b. Remove and place on homeowner's property mailboxes designated by Engineer. Homeowner is responsible for postal service during construction.
 - c. Postal service and other affected delivery services shall approve all locations and installations.
 - d. Temporary mailbox banks may be utilized in accordance with the following:
 - 1) Accessible to postal service and postal recipient at all times.
 - 2) Numerous mailbox banks may be utilized to minimize distances from postal recipients.
 - 3) Provide materials to construct temporary mailbox banks.
 - e. Property owner's posts, cross members, and mailboxes not used during temporary relocation shall be properly stored by Contractor.
 - f. If postal delivery is not achieved, Work shall stop immediately and remain stopped until the situation is corrected.
- 3. Traffic Signals:
 - a. Contractor shall ensure that a traffic control signal system is in operation at each intersection at all times, except as otherwise approved by Engineer.
 - b. An all-way stop condition may be installed at an intersection if the following conditions are met:
 - 1) The all-way stop condition is part of a suitable traffic plan or sequence of construction for the Project approved by Engineer.
 - 2) All signal cable, signal equipment, and signal hardware required for system is either on Site or in Contractor's stock and

available for immediate installation.

- 3) Roadway construction activities require removal of portions of existing traffic signal system.
 - 4) STOP (R1-1) signs shall be 48 inches by 48 inches, and shall be placed on left and right sides of all approaches to intersection.
 - 5) STOP AHEAD (W3-1a) signs shall be 48 inches by 48 inches, with orange warning flags, and installed on both sides of all approaches to intersection at locations directed by Engineer
- c. Under no conditions will the all-way stop condition be allowed during winter or other non-construction periods.
 - d. Maintain street name identification at all times.
 - 1) Provide temporary ground mounted signs when mast arm signs are removed.
 - e. Maintain and protect in-place equipment not being modified, replaced, or abandoned, as approved by Engineer.
 - f. Contact the proper agency at least 72 hours prior to need for modifications to signal system. Agency may authorize Contractor to make modifications, or may require agency personnel be present to make modifications.
4. Pavement Markings:
- a. See Section 32 17 23.
 - b. For long-term lane closures and traffic shifts, remove all pavement markings that conflict with temporary traffic control operations in accordance with INDOT Standards.
 - c. Removal and replacement of these pavement markings shall be considered incidental to Traffic Control.

3.03 INSTALLATION

- A. For signs that will be in-place for longer than 30 days, mount signs on posts driven into ground at proper height and lateral

offset as detailed in IN MUTCD. For signs in-place for less than 30 days, or if this is not possible, maintain signs on portable supports or barricades.

- B. Signs shall not be mounted on metal drums.
- C. Placement of signs and barricades shall proceed in direction of traffic flow.
- D. Cover traffic control devices inconsistent with traffic patterns.

3.04 TRAFFIC PROTECTION

- A. Do not deposit, store materials, or park equipment on or adjacent to any roadway open to traffic that will interfere with safe flow of traffic.
- B. Keep roadways that are open to traffic free from earth materials and debris.
- C. During construction, provide devices to protect traffic and pedestrians from drop-offs, openings, falling objects, splatter or other hazards.
 1. Open excavations/drop-offs adjacent to traveled roadway:
 - a. Schedule operations so as to minimize traffic exposure to uneven lanes, milled edges, and edge drop-offs.
 - b. Close a traffic lane, auxiliary lane, or shoulder on any road open to traffic when construction operations cause a drop-off greater than 4 inches adjacent to that lane or shoulder, unless adequately protected by traffic barrier.
 - c. Sign and delineate any drop-off less than 4 inches caused by construction operations, as shown in the Field Manual.
 - d. When excavations on roadways open to traffic exceed 1 foot in depth:
 - 1) Provide continuous portable concrete barriers for entire length of excavation.
 - 2) Include suitable end treatment consisting of tapered barrier sections, impact attenuators, or combination thereof.

- 3) Place warning lights at 50-foot intervals.
- e. Place portable concrete barriers with end treatments according to Part of the IN MUTCD and AASHTO's "Roadside Design Guide."
- 2. In lieu of precast concrete barrier, barrels and barricades may be used during construction, as approved by Engineer, provided that:
 - a. Construction work is actively done in or directly adjacent to excavation.
 - b. Workers are present.
 - c. It is daylight hours; or, if nighttime hours, there is additional lighting of the open excavation.
 - d. Traffic is in a single lane (alternating) or a single lane in each direction with parking removed.
 - e. Barrels or barricades can be set outside the minimum widths required for traffic and at intervals as directed by Engineer.
- D. Pedestrian Access and Traffic:
 - 1. Provide continuous access to all adjacent residences and businesses.
 - 2. Provide temporary boardwalk where in-place sidewalk is removed.
 - 3. When access to business entrances is prohibited, coordinate with business owners to provide protection and direction for alternate entrances.
 - 4. Provide signs, barricades, flasher, snow fence or other devices as required to protect pedestrians adjacent to Work.
 - 5. Cover newly poured concrete sidewalk with plywood after curing compound is applied to provide access at business entrances.
- B. Replace reflective material on both new and used traffic control devices whose effectiveness, in Engineer's opinion, has been substantially reduced from traffic or other causes.
- C. Keep traffic control signs and devices furnished in legible condition, including removing any grime deposited on devices by traffic, natural causes, or by nature of Work being performed.
- D. Relocate any traffic control device that is misplaced due to Contractor or subcontractor operations.
- E. Following construction, reinstall mail and other delivery boxes in convenient locations and in compliance with USPS regulations.
 - 1. Replace any box or supporting member that is damaged during construction.
 - 2. Permanent installation shall be acceptable to postal service, delivery service, and property owner.

END OF SECTION

3.05 REMOVAL OF DEVICES

- A. After signs are removed, remove sign posts as soon as possible.
- B. Removal of signs and barricades shall start at the end of construction areas and proceed toward oncoming traffic, unless otherwise directed by Engineer.

3.06 RESTORATION AND ADJUSTMENT

- A. Replace any device found to be defective.

TRAFFIC CONTROL INSPECTION CHECKLIST

PROJECT NUMBER _____

1. Are any traffic control devices missing?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____
2. Do any traffic control devices need repair?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____
3. Were any traffic control devices replaced or repaired?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____

4. Are any lights/flashers not functioning?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____
5. Were any lights/flashers replaced or repaired?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____

6. Are any traffic control devices improperly placed?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____
7. Were all traffic control device positions corrected?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	

8. Do any traffic control devices need cleaning?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	How Many? _____
9. Were all traffic control devices cleaned?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	

THIS TRAFFIC CONTROL INSPECTION WAS PERFORMED BY:

_____ of _____
(Name) (Title) (Name of Contractor)

ON ____ / ____ / ____ AT ____ (AM PM)

ADDITIONAL COMMENTS: _____

SECTION 01 57 13

**TEMPORARY EROSION AND SEDIMENT CONTROL
(INDOT 205)**

PART 1 GENERAL

1.01 SUMMARY

- A. Section includes furnishing, installing, maintaining, and removing temporary erosion and sediment control measures.
- B. Materials:
 - 1. Coarse Aggregate, Class F or Higher
 - 2. Geotextile for Silt Fence
 - 3. Geotextile Under Riprap
 - 4. Metal End Section
 - 5. Pipe Drains
 - 6. Revetment Riprap
 - 7. Stakes
 - 8. Straw Bales: Shall be a minimum of 14 inches by 18 inches by 36 inches, and shall not weigh less than 35 pounds. Bales shall be bound with wire or nylon twine.
- C. Related Sections:
 - 1. Section 02 41 11 – Removing Pavement and Miscellaneous Structures
 - 2. Section 31 13 15 – Site Preparation
 - 3. Section 31 23 10 – Excavation and Embankment

1.02 REFERENCES

- A. INDOT:
 - 1. 108 - Prosecution and Progress
 - 2. 201 - Clearing and Grubbing
 - 3. 203 - Excavation and Embankment
 - 4. 205 - Temporary Erosion and Sediment Control and Current Supplements and Current Supplements.
 - 5. 616 - Riprap and Slopewall
 - 6. 621 - Seeding and Sodding
 - 7. 715 - Pipe Culverts, and Storm and Sanitary Sewers
 - 8. 904 - Aggregate

- 9. 907 - Concrete, Clay, and Plastic Drainage Components
- 10. 908 - Metal Pipe
- 11. 910 - Metal Materials
- 12. 913 - Miscellaneous
- 13. 914 - Roadside Development Materials
- B. Title 326 IAC - Air Pollution Control Board
- C. Title 327 IAC - Water Pollution Control Board
- D. Title 329 IAC - Solid Waste Management Board
- E. Indiana "Rule 5" - 327 IAC 15-5.
- F. Indiana Handbook for Erosion Control in Developing Areas - published by the Division of Soil Conservation, Indiana Department of Natural Resources

1.03 SUBMITTALS

- A. Product Data
- B. Shop Drawings
- C. Samples
- D. Erosion Control Schedule
- E. Contractor shall submit within 30 days of Notice of Award and prior to the Preconstruction Conference.

1.04 QUALITY ASSURANCE

- A. Contractor shall obtain all necessary permits from the responsible regulatory agencies for temporary erosion control measures not shown on the Drawings.

1.05 DELIVERY, STORAGE, AND HANDLING

- A. Follow the manufacturer's recommendation for shipping, handling, and unloading.
- B. Follow the manufacturer's recommendation for storage and protection.

- C. Restore all plant, equipment, or other supplementary operation sites to prevent siltation and erosion.
- D. Repair any offsite damage resulting from failure to install or maintain erosion control measures.

1.06 SEQUENCING

END OF SECTION

- A. Construct drainage facilities and turf establishment concurrently with earthwork operation.
- B. Complete construction and finishing operation on a drainage area basis to minimize erosion.
- C. Incorporate erosion control measures at the earliest practical time during construction.
- D. Install erosion control measures shown on the Drawings prior to the disturbance of in-place ground cover in critical areas that are tributary to public waters.

1.07 MAINTENANCE

- A. Maintain all erosion control facilities to provide proper function throughout the Project.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 CONSTRUCTION REQUIREMENTS

- A. Shape exposed soil area to permit runoff with minimal erosion.
- B. Install safeguards to prevent water pollution from haul roads, work platforms or other temporary construction facilities.

SECTION 01 57 19

AIR, LAND AND WATER POLLUTION

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. General requirements for the control of pollution from construction sites and related activities.

1.02 RELATED SECTIONS

- A. Section 01 11 00 – Summary of Work
- B. Section 01 31 13 – Coordination
- C. Section 01 57 13 – Temporary Erosion and Sediment Control
- D. Individual Technical Sections

1.03 UNIT PRICES

- A. All activities required by or relating to this section will be considered incidental.
- B. No direct payment will be made.
- C. No additional compensation or time extension will be granted due to actions brought against the Contractor for failure to comply with pollution control requirements.

1.04 REFERENCES

- A. Title 326 IAC – Air Pollution Control Board.
- B. Title 327 IAC – Water Pollution Control Board.
- C. Title 329 IAC – Solid Waste Management Board.

1.05 QUALITY ASSURANCE

- A. Regulatory Requirements

- 1. Conduct all operations to prevent, control and abate the pollution of air, land and water in accordance with the rules, regulations and standards adopted and established by the following agencies:
 - a. Indiana Department of Environmental Management.
 - b. Indiana Department of Natural Resources.
 - c. U.S. Army Corps of Engineers.

1.06 SCHEDULING

- A. Schedule and conduct all operations to minimize soil erosion and prevent siltation and the resultant turbidity of public waters.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 PREPARATION

- A. Review all local conditions and regulations pertaining to air, water and land pollution prior to commencing operations.

3.02 PROTECTION OF WATERS

- A. Prevent pollution of flowing or impounded waters from particulate or liquid matter that may be harmful to fish and wildlife or detrimental to public use.
- B. Remove sediment from aggregate wash operations by filtration or settlement prior to discharge into public waters.
- C. Do not discharge wash water or waste from concrete mixing operations into live streams.

- D. Dispose of all construction demolition, debris, garbage and other solid and liquid wastes in properly permitted disposal facilities.
- E. Conform to all applied requirements of Section 01 57 13.

END OF SECTION

SECTION 01 60 00

PRODUCT REQUIREMENTS

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Administrative and procedural requirements governing:
 - a. Products.
 - b. Delivery, storage and handling.

1.02 PRODUCT DEFINITIONS

- A. Products: Unless indicated otherwise, the term "products" represents new material, machinery, components, equipment, fixtures and systems forming the Work.
 - 1. Does not include machinery and equipment used for preparation, fabrication, conveying or erection of the Work.
- B. Named Products: Items identified by manufacturer's product name, including make or model designation, indicated in the manufacturer's published product literature, that is current as of the date of the Contract Documents.
- C. Materials: Products that are substantially shaped, cut, worked, mixed, finished, refined or otherwise fabricated, processed, or installed as part of the Work.
- D. Equipment: A product with operational parts, whether motorized or manually operated, that requires service connections such as wiring or piping.

1.03 PRODUCT QUALITY ASSURANCE

- A. Source Limitations: To the fullest extent possible, provide products of the same kind, from a single source.

B. Limited Quantities:

- 1. When specified products are available only from sources that do not or cannot produce a quantity adequate to complete project requirements in a timely manner, consult with the Engineer for a determination of the most important product qualities before proceeding.
- 2. Qualities may include attributes relating to:
 - a. Visual appearance.
 - b. Strength.
 - c. Durability.
 - d. Compatibility.
- 3. When a determination has been made, select products from sources that possess these qualities to the fullest extent possible.

1.04 PRODUCT REQUIREMENTS

- A. Minimum Requirements: Comply with specifications and referenced standards.
- B. Product Provision: Provide products complete with all accessories, trim, finish, safety guards and other devices and details needed for a complete installation and for the intended use and effect.
- C. Components: Items required to be supplied in quantity within a specification section shall be the same and shall be interchangeable.
- D. Compatibility of Options: When the Contractor is given the option of selecting between two or more products for use on the Project, the product selected shall be compatible with products previously selected, even if previously selected products were also options.
- E. Existing Products: Do not use materials and equipment removed from existing premises,

except as specifically required or permitted by Contract Documents.

- F. Nameplates: Except for required labels and operating data, do not attach or imprint manufacturer's nameplates or trademarks on exposed surfaces of products that will be exposed to view in occupied spaces or on the exterior.
 - 1. Labels: Locate required product labels and stamps on concealed surfaces or, where required for observation after installation, on an accessible surface that is not conspicuous.
 - 2. Equipment Nameplates: Provide permanent nameplate on each item of service-connected or power-operated equipment.
 - a. Locate on an easily accessible surface that is inconspicuous in occupied spaces.
 - b. Provide the following information and other essential operating data on nameplate:
 - 1) Name of product and manufacturer.
 - 2) Model and serial number.
 - 3) Capacity.
 - 4) Speed.
 - 5) Ratings.

1.05 DELIVERY, STORAGE AND HANDLING

- A. General Requirements:
 - 1. Deliver, store and handle products in accordance with the manufacturer's recommendations.
 - 2. Schedule and coordinate the delivery of materials to ensure personnel and equipment will be available at the site.
 - 3. Sequence deliveries to avoid delays but minimize on-site storage.
 - 4. Prevent damage, deterioration, soiling, and loss, including theft.
 - 5. Repair or replace damaged materials at no additional cost to the Owner.
- B. Packing and Shipping: Deliver products to the jobsite in manufacturer's sealed

containers bearing the manufacturer's name and brand, and appropriate UL labels for fire hazard and fire resistance classification.

- C. Acceptance at Site:
 - 1. Promptly inspect shipments to ensure that:
 - a. Products comply with requirements.
 - b. Quantities are correct.
 - c. Products are undamaged.
 - 2. Replace damaged or defective materials.
- D. Storage and Protection:
 - 1. Store with manufacturer's seals and labels intact and legible.
 - 2. Store sensitive products in weather-tight, climate-controlled enclosures.
 - 3. Cover products subject to deterioration with impervious sheet covering, providing ventilation to avoid condensation.
 - 4. For exterior storage of fabricated products, place on sloped supports, above ground.
 - 5. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.
 - 6. Provide off-site storage and protection when site does not permit on-site storage or protection.
 - 7. Protect stored materials from damage by adjacent work, falling debris, or equipment.
 - 8. Arrange storage of products to permit access for inspection. Periodically inspect to assure products are undamaged and are maintained under required conditions.

1.06 PRODUCT SELECTION

- A. Product selection is governed by the Contract Documents, and governing regulations by previous project experience.
- B. Proprietary Specification Requirements: Where only a single product or manufacturer is named, provide the product indicated. No substitutions will be permitted.

C. Semi-Proprietary Specification Requirements:
1. Where 2 or more products or manufacturers are named, provide 1 of the products indicated. No substitutions will be permitted.

a. Where products or manufacturers are specified by name, accompanied by the term “or equal,” or “or approved equal” comply with Section 01630 or other Contract Document provisions concerning “substitutions” to obtain approval for use of an unnamed product.

b. Contractors and suppliers will be expected to provide the specified product unless prior approval is received from the Engineer’s office in sufficient time to notify bidders through addendum.

D. Descriptive Specification Requirements: Where specifications described a product or assembly, listing exact characteristics required, with or without use of a brand or trade name, provide a product or assembly that provides the characteristics and otherwise complies with contract requirements.

E. Performance Specification Requirements: Where specifications require compliance with performance requirements, provide products that comply with these requirements, and are recommended by the manufacturer for the application indicated.

1. Manufacturer’s recommendations may be contained in published product literature, or by the manufacturer’s certification of performance.

2. General overall performance of a product is implied where the product is specified for a specific application.

F. Compliance with Standards, Codes and Regulations: Where the specifications only require compliance with an imposed code, standard or regulation, select a product that complies with applicable standards, codes and regulations.

G. Visual Matching: Where specifications require matching an established sample, the Engineer’s decision will be final on whether a proposed product matches satisfactorily.

1. Where no product available within the specified category matches satisfactorily but complies with other specified requirements, comply with provisions of the Contract Documents concerning “substitutions” for selection of a matching product, or for noncompliance with specified requirements.

H. Visual Selection: Where specified product requirements include the phrase “...as selected from manufacturer’s standard colors, patterns, textures...” or a similar phrase, select a product and manufacturer that comply with other specified requirements. The Engineer will select the color, pattern and texture from the product line selected.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 CLEANING AND PROTECTION

A. Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.

END OF SECTION

SECTION 01 60 10

MATERIALS AND EQUIPMENT

PART 1 GENERAL

1.01 SECTION SUMMARY

- A. Section Includes:
 - 1. Products
 - 2. Transportation and handling
 - 3. Storage and protection
 - 4. Product options
 - 5. Substitutions
- B. Related Sections:
 - 1. Section 01 31 13 – Coordination
 - 2. Section 01 45 00 – Quality Control
 - 3. Individual Technical Sections

1.02 PRODUCTS

- A. Products: Means new materials, machinery, components, equipment, fixtures and systems forming the Work. Does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work. Products may also include existing materials or components required for reuse.
- B. Do not use materials and equipment removed from existing premises, except as specifically permitted by the Contract Documents.
 - 1. Provide interchangeable components of the same manufacturer, for similar components.

1.03 TRANSPORTATION AND HANDLING

- A. Transport and handle Products in accordance with manufacturer's instructions.
- B. Promptly inspect shipments to assure that Products comply with requirements, quantities are correct, and Products are undamaged.

- C. Provide equipment and personnel to handle Products by methods to prevent soiling, disfigurement or damage.
- D. Arrange deliveries of materials and equipment in accordance with Construction Progress Schedule, coordinate to avoid conflict with Work and conditions at Site.
 - 1. Deliver materials and equipment in undamaged condition, in manufacturer's original containers or packaging, with identifying labels intact and legible.
 - 2. Protect bright machined surfaces, such as shafts and valve faces, with heavy coat of grease prior to shipment.
 - 3. Upon delivery, inspect shipments to ensure compliance with Contract Documents and approved submittals, and materials and equipment have been protected and are undamaged.

1.04 STORAGE, PROTECTION AND MAINTENANCE

- A. Store and protect Products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive Products in weather-tight, climate controlled enclosures.
- B. For exterior storage of fabricated Products, place on sloped supports, above ground.
- C. Provide off-site storage and protection when site does not permit on-site storage or protection.
- D. Cover Products subjected to deterioration with impervious sheet covering. Provide ventilation to avoid condensation.
- E. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.

- F. Provide equipment and personnel to store Products by methods to prevent soiling, disfigurement or damage.
- G. Arrange storage of Products to permit access for inspection. Periodically inspect to assure Products are undamaged and are maintained under specified conditions.
- H. Owner and Engineer assume no responsibility for damage or loss due to storage of materials and equipment in buildings or on-site. Contractor assumes full responsibility for damage of stored materials or equipment.
- I. Interior Storage:
 1. Store with seals and labels intact and legible.
 2. Store materials and equipment subject to damage by elements in weather-tight enclosures.
 3. Maintain temperature and humidity within ranges required by manufacturer's instructions.
- J. Exterior Storage
 1. Store fabricated materials and equipment above ground, on blocking or skids, to prevent soiling or staining. Cover materials and equipment subject to deterioration with impervious sheet coverings. Provide ventilation to avoid condensation.
 2. Store loose granular materials in well-drained area on solid surfaces to prevent mixing with foreign matter.
- K. Inspection and Maintenance:
 1. Arrange storage to provide easy access for inspection, maintenance, and inventory.
 2. Make periodic inspections of stored materials and equipment to ensure materials and equipment maintained under specified conditions are free from damage or deterioration, and coverings are in-place and in condition to provide required protection.
 3. Perform maintenance on stored material and equipment in accordance with manufacturer's written instructions and in presence of Owner and Engineer.
 - a. Notify Engineer 24 hours before performance of maintenance.
 - b. Submit report of completed maintenance and condition of coverings to Engineer with each Application for Payment.
 - c. Failure to perform maintenance, to notify Engineer of intent to perform maintenance or to submit maintenance report may result in rejection of material or equipment.
- L. Assume responsibility for protection of completed construction and repair and restore damage to completed Work equal to original condition.

1.05 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or By Description Only: Any Product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Products of manufacturers named and meeting specifications, no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.

1.06 SUBSTITUTIONS

- A. Engineer will consider requests for Substitutions only within 30 days after date of Owner-Contractor Agreement.
- B. Substitutions may be considered when a Product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.

- D. A request constitutes a representation that the Contractor:
 1. Has investigated proposed Product and determined that it meets or exceeds the quality level of the specified Product.
 2. Will provide the same warranty for the Substitution as the specified Product.
 3. Will coordinate installation and make changes to other Work which may be required for the Work to be complete with no additional cost to Owner.
 4. Waives claims for additional costs or time extension which may subsequently become apparent.

- E. Substitutions will not be considered when they are indicated or implied on Shop Drawings or product data submittal, without separate written request, or when acceptance will require revision to the Contract Documents.

- F. Substitution Submittal Procedures:
 1. Submit six copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
 2. Submit Shop Drawings, Product data, and certified test results attesting to the proposed Product equivalence.
 3. The Engineer will notify Contractor, in writing, of decision to accept or reject request.

- 2. Comply with size, make, type, and quality specified or as approved by Submittal.

- B. Manufactured and Fabricated Materials and Equipment:
 1. Design, fabricate, and assemble in accordance with engineering and shop practices standard with industry.
 2. Manufacture like parts of duplicate units to standard sizes and gauges, to be interchangeable.
 3. Two or more items of same kind shall be identical, by same manufacturer.
 4. Material and equipment shall be suitable for service conditions.
 5. Equipment capabilities, sizes, and dimensions shown or specified shall be adhered to, unless variations are specifically approved, in writing.
 6. Equipment shall be adapted to best economy in power consumption and maintenance. Parts and components shall be proportioned for stresses occurring during continuous or intermittent operation, and for additional stresses occurring during fabrication or installation.
 7. Design so working parts are readily accessible for inspection and repair, easily duplicated, and replaced.

- C. Do not use materials or equipment for purpose other than for which it is designed or specified.

PART 2 PRODUCTS

2.01 MATERIALS AND EQUIPMENT

- A. Materials and Equipment Incorporated into Work:
 1. Conform to applicable specifications and standards.

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 71 14

**MOBILIZATION AND DEMOBILIZATION
(INDOT 110)**

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Preparatory Work and Operations
 - 2. Movement of Personnel and Equipment
 - 3. Establishment and Removal of Field Offices and Facilities
- B. Related Sections:
 - 1. Section 01 52 19 - Temporary Sanitary Facilities
 - 2. Section 01 57 19 – Air, Land and Water Pollution
 - 3. Section 01 55 25 - Maintenance of Traffic
 - 4. Section 01 57 13 – Temporary Erosion and Sediment Control
- C. Basis of Payment:
 - 1. If the Lump Sum bid amount for Mobilization exceeds 5 percent of the total Base Bid amount, the Owner will withhold the amount in excess of 5 percent until Substantial Completion of the Project.
 - 2. Payment for Mobilization and Demobilization shall be based on the following schedule:

Item	Unit
Mobilization and Demobilization	L.S.

1.02 REFERENCES

- A. INDOT 110 - Mobilization and Demobilization and Current Supplements

1.03 PERFORMANCE REQUIREMENTS

- A. Submittal of information listed under Article 1.04.

- B. Installation of temporary sanitary facilities.
- C. Pollution Prevention.
- D. Traffic Maintenance
- E. Erosion and Sediment Control
- F. Commencement of Work.

1.04 SUBMITTALS

- A. Approved Project Schedule
- B. Shop Drawing Schedule
- C. List of Proposed Subcontractors
- D. List of Proposed Suppliers
- E. Material and Procedural Submittals, as required

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 01 71 23

CONSTRUCTION ENGINEERING

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Field Engineering Provided by Contractor
 - 2. Site Layout
 - 3. Staking
 - 4. Quantity Surveys and Computations
- B. Related Sections:
 - 1. Section 01 11 00 - Summary of Work
- C. Method of Measurement:
 - 1. Payment for Field Engineering shall be at the Contract Lump Sum Price as listed in Bid Form as "Construction Engineering". All associated work items shall be considered incidental.

1.02 SUBMITTALS

- A. Submit name and qualifications of surveyor that will perform Work.
- B. Submit log or other records of all survey Work completed.
- C. Submit copies of measurement and calculations for quantity surveys.

1.03 QUALITY ASSURANCE

- A. All Work in this Section shall be under the direction of a surveyor registered in the State of Indiana.

1.04 SITE CONDITIONS

- A. Benchmarks and control points shall be supplied to CONTRACTOR prior to construction.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify locations of control points prior to start of Work.
- B. Relate information given on the Drawings to existing Site conditions.
- C. Promptly advise Engineer of any discrepancies.

3.02 PREPARATION

- A. Protect and preserve all benchmarks and control points.
- B. Advise Engineer of the required relocation of any reference points due to grade changes or other reasons.
- C. Replace dislocated reference points based on original survey control.

3.03 SURVEY REQUIREMENTS

- A. Staking:
 - 1. Establish locations, layouts, lines and elevations by instrumentation and similar methods for the following improvements:
 - a. Trail
 - b. Parking Lot
 - c. Utilities (Water, Sanitary, Storm, Electrical, etc.)
 - d. Structures
 - e. Site lighting
 - f. Sidewalks, concrete pads, fences, etc.
 - 2. Tolerances:
 - a. Horizontal Distances: 1/7500
 - b. Horizontal Angles: 0 degrees - 00 minutes - 00 feet - 01 inches

c. Elevation:

$$0.050 \text{ ft.} \times \sqrt{\text{length (miles)}}$$

3. Maintain log or record book indicating all Work completed for review and submittal.

B. Quantity Surveys:

1. Submit copies of all measurements and calculations to Engineer for review.

END OF SECTION

SECTION 01 77 00

CLOSEOUT PROCEDURES

PART 1 GENERAL

1.01 SECTION SUMMARY

- A. Project requirements, indicating completion of work.
 - 1. Substantial completion
 - 2. Final completion
 - 3. Record document submittals
- B. Related Sections:
 - 1. Section 01 11 00 – Summary of Work
 - 2. Individual Technical Sections

1.02 DEFINITIONS

- A. Time of Closeout:
 - 1. Directly related to “Substantial Completion,” may be either a single time period for entire work or series of time periods for individual elements of work that have been certified as substantially complete at different dates.
 - 2. This time variation, if any, shall be applicable to other provisions of this section.

1.03 PREREQUISITES TO SUBSTANTIAL COMPLETION

- A. Request Engineer’s inspection for certification of substantial completion for each phase of work. List known exceptions in request.
- B. Administrative actions and submittals to precede or coincide with Substantial Completion include:
 - 1. Incomplete Work:
 - a. List of incomplete work.
 - b. Value of incomplete work.
 - c. Reasons for work being incomplete.
 - 2. Monetary:
 - a. Progress payment request coinciding with or first request

following date substantial completion is claimed showing 100 percent complete, or listing incomplete work.

- b. Statement of changes to contract sum.
- 3. Regulatory Requirements:
 - a. Releases enabling Owner’s full, unrestricted use of work and access to services and utilities.
- 4. Bonding and Insurance:
 - a. Consent of Surety to Reduction In or Partial Release of Retainage.
 - b. Advise Owner of pending insurance change-over-requirements.
- 5. Warranties: Specific warranties, workmanship/maintenance bonds, maintenance agreements, final certifications, similar documents.
- 6. Maintenance:
 - a. Maintenance Instructions.
 - b. Maintenance Manuals.
- 7. Records and Reports:
 - a. Test/adjust records.
 - b. Startup performance reports.
- 8. Adjusting:
 - a. Repair and restore marred exposed finishes
 - b. Touch up of painting of marred surfaces
 - c. Final cleaning

1.04 PREREQUISITES TO FINAL ACCEPTANCE

- A. Request Engineer’s final inspection for certification of final acceptance and final payment as required by General Conditions. List known exceptions in request.
- B. Final Payment Application: Administrative actions and submittals which must precede or coincide with submittal of final payment application for payment include:
 - 1. Completion of Work:

- a. Completion of Project requirements.
- b. Completion of items specified for completion after substantial completion.
- c. Assurance that work not complete and accepted will be completed without undue delay.
- d. Final cleaning.
- 2. Transfer of Site to Owner:
 - a. Removal of temporary facilities and services.
 - b. Removal of surplus materials, rubbish, similar elements.
- 3. Submittals:
 - a. Lien Waivers from subcontractors and suppliers.
 - b. Certificate of Substantial Completion.
 - c. Contractor's Affidavit of:
 - 1) Payment of Debts and Claims.
 - 2) Release of Liens.
 - d. Consent of Surety (if Performance Bond provided)
 - 1) To Partial Release of Retainage
 - 2) To Final Payment.
 - e. Assurance that unsettled claims will be settled.
 - f. Transmittal of required project construction records (as-built drawings, etc.) to Owner.
 - g. Proof that fees and similar obligations have been paid.
 - h. Certified copy of Engineer's final punch list of itemized work to be completed or corrected, stating that each item has been completed or otherwise resolved for acceptance and has been endorsed and dated by Engineer.
 - i. Evidence of final, continuing insurance coverage complying with insurance requirements.
- 4. Final payment request, including certificates of insurance for products and completed operations where required.
- 5. Updated final statement, accounting for final additional changes to Contract Sum.
- 6. Final liquidated damages settlement statement, acceptable to Owner.

- C. Re-inspection Procedure:
 - 1. Engineer will re-inspect work upon receipt of notice that work, including punch list items resulting from earlier inspections, has been completed, except for items whose completion has been delayed because of circumstances that are acceptable to Engineer.
 - 2. Engineer will either prepare a certificate of final acceptance, or will advise Contractor of work that is incomplete or of obligations that have not been fulfilled but are required for final acceptance.
 - 3. If necessary, re-inspection procedure will be repeated.

1.05 RECORD DOCUMENT SUBMITTALS

- A. Miscellaneous Record Submittals:
 - 1. Refer to other sections of specifications for requirements of miscellaneous record keeping and submittals in connection with actual performance of work.
 - 2. Immediately prior to date or dates of substantial completion, complete miscellaneous records, place in good order, properly identified and bound or filed, ready for continued use and reference.
 - 3. Submit to Engineer for Owner's records.
- B. Record Drawings: Submit to Engineer a set of record drawings marked to show "as-built" conditions for work of contract.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 INSPECTION PROCEDURES

- A. When prerequisites are complete, submit request in writing to Engineer stating that all requirements are satisfied, and requesting inspection.

- B. Upon receipt of Contractor's request for inspection, Engineer will either proceed with inspection or advise Contractor of unfilled prerequisites.
- C. Following initial inspection, Engineer will either prepare certificate of substantial completion, or advise Contractor of work which must be performed before certificate will be issued.
- D. Engineer will repeat inspection when requested and when assured that work has been substantially completed.
- E. Results of completed inspection will form initial "punch list" for final acceptance.

- 2. Shut-down.
- 3. Emergency operations.
- 4. Noise and vibration adjustments.
- 5. Safety procedures.
- 6. Economy and efficiency adjustments.
- 7. Effective energy utilization.

END OF SECTION

3.02 OPERATING/MAINTENANCE INSTRUCTIONS

- A. Arrange for each installer of operating equipment and other work requiring regular or continuing maintenance, to meet at site with Owner's personnel to provide necessary basic instruction in proper operation and maintenance of entire work.
- B. Where installers are not experienced in required procedures, include instruction by manufacturer's representatives.
- C. Provide detailed review of following items:
 - 1. Maintenance manuals.
 - 2. Record documents.
 - 3. Spare parts and materials.
 - 4. Tools.
 - 5. Lubricants.
 - 6. Fuels.
 - 7. Identification systems.
 - 8. Control sequences.
 - 9. Hazards.
 - 10. Cleaning materials and procedures.
 - 11. Warranties, bonds, maintenance agreements similar continuing commitments.
- D. As part of this instruction for operating equipment, demonstrate following procedures:
 - 1. Start-up.

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PRODUCT WARRANTIES

PART 1 GENERAL

1.01 SUMMARY

- A. Requirements include administrative and procedural requirements for:
 - 1. Warranties
 - 2. Warranty submittals
- B. Related Sections:
 - 1. Document 00 72 00 General Conditions
 - 2. Section 01 33 00 - Submittals
 - 3. Section 01 77 00 - Closeout Procedures
 - 4. Individual Technical Sections

1.02 DEFINITIONS

- A. Standard Product Warranties: Preprinted written warranties published by individual manufacturers for particular products and are specifically endorsed by the manufacturer to Owner.
- B. Special Warranties: Written warranties required by, or incorporated in the Contract Documents, either to extend time limits provided by standard warranties or to provide greater rights for Owner.

1.03 WARRANTY REQUIREMENTS

- A. Separate Prime Contracts:
 - 1. Each prime Contractor is responsible for warranties related to its own contract. Each Contractor shall warrant their work for labor and material for 1-year minimum. This warranty shall include material purchased directly by Owner and installed by Contractor. Warranty requirements noted in individual sections may exceed this 1-year minimum; if it does, the warranty shall apply for the stipulated time for both material and labor.

- B. Related Damages and Losses: When correcting warranted Work that has failed, remove and replace other Work that has been damaged as a result of such failure or that must be removed and replaced to provide access for correction of warranted Work.
- C. Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with requirements of Contract Documents. Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether Owner has benefited from use of the Work through a portion of its anticipated useful service life.
- D. Reinstatement of Warranty: When Work covered by a warranty has failed and been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.
- E. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of warranty on the Work that incorporates the products.
- F. Owner's Recourse: Written warranties made to Owner are in addition to implied warranties, and shall not limit the duties, obligations, rights and remedies otherwise available under the law, nor shall warranty periods be interpreted as limitations on time in which Owner can enforce such other duties, obligations, rights or remedies.
 - 1. Rejection of Warranties: Owner reserves the right to reject warranties and to limit selections to products with warranties

not in conflict with requirements of the Contract Documents.

- G. Right of Refusal: Owner reserves the right to refuse to accept Work for the Project where a special warranty, certification, or similar commitment is required on such Work or part of the Work, until evidence is presented that entities required to countersign such commitments are willing to do so.

1.04 SUBMITTALS

- A. Warranty Commencement:
 - 1. Submit duplicate, notarized copies of written warranties to Engineer prior to the date certified for Substantial Completion. Engineer's Certificate of Substantial Completion shall be the commencement date for warranties.
 - 2. When a designated portion of the Work is completed and occupied or used by Owner, by separate agreement with Contractor during the construction period, submit properly executed warranties to Engineer within 15 days of completion of that designated portion of the Work.
 - 3. For items of Work delayed beyond the date of Substantial Completion, provide updated submittal within 10 days of acceptance by Owner, listing date of acceptance as start of warranty period.
- B. Special Warranty:
 - 1. When a special warranty is required to be executed by Contractor, or Contractor and a subcontractor, supplier or manufacturer, prepare a written document that contains appropriate terms and identification, ready for execution by the required parties. Submit a draft to Owner through Engineer for approval prior to final execution.
 - a. Execute and assemble documents from subcontractors, suppliers, and manufacturers.
 - b. Refer to individual sections of Divisions 2 through 44 for specific

content requirements, and particular requirements for submittal of special warranties.

- C. Form of Submittal:
 - 1. At final completion compile 2 copies of each required warranty and bond properly executed by Contractor, subcontractor, supplier, or manufacturer.
 - 2. Organize the warranty documents into an orderly sequence based on the Table of Contents of the Project Manual.
 - 3. Bind warranties and bonds in heavy-duty, commercial quality, durable 3-ring vinyl covered loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-inch by 11-inch paper.
 - a. Identify each binder on the front and the spine with the typed or printed title "Warranties and Bonds," the project title or name, and the name of Contractor.
 - b. When operating and maintenance manuals are required for warranted construction, provide additional copies of each required warranty, as necessary, for inclusion in each required manual.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

EXHIBIT A

EXHIBIT A

HAMMOND LICENSED GENERAL AND SUB CONTRACTORS

A current Hammond list of licensed General Contractors and Sub Contractors can be found at the following web address:

http://www.gohammond.com/wp-content/uploads/Departments/Inspections_Department/pdf/licensed_contractors_by_name.pdf