

CONTRACT MANUAL

CONTRACT FORMS AND CONDITIONS OF THE CONTRACT

City of Thompson Falls, Montana

AINSWORTH COMMUNITY PARK PROJECT



Prepared by:



431 1st Ave West
Kalispell, MT 59901

September 10, 2019

Project Number: #MT-CDBG-17PF-13
Engineer Project Number: 17-07-25

Document Number: _____

THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE MONTANA "UNIFORM ARBITRATION ACT" MONTANA CODE ANNOTATED, TITLE 27, CHAPTER 5 ET. SEQ.

CONTRACT MANUAL
AINSWORTH COMMUNITY PARK PROJECT
CITY OF THOMPSON FALLS, MONTANA
CDBG Project: #MT-CDBG-17PF-13

I hereby certify that the Project Plans, Specifications, and other assembled Contract Documents were prepared by me or under my direct supervision and that I am a duly registered Engineer under the laws of the State of Montana.

Stephanie A. Reynolds, P.E.
NAME



September 10, 2019
DATE

WGM Group, Inc.
431 1st Ave West
Kalispell, MT 59901
(406) 756-4848 Phone

AINSWORTH COMMUNITY PARK PROJECT

DIVISION A

BIDDERS CHECKLIST
INVITATION TO BID
INSTRUCTIONS TO BIDDERS
AGREEMENT
PERFORMANCE BOND
BID BOND
BID FORM

AINSWORTH COMMUNITY PARK PROJECT

BIDDER'S CHECKLIST

At the Bidder's option, the following Bidder's Checklist may be utilized in preparing your bid.

- ____ 1) Original Bid Bond Enclosed?

- ____ 2) Bid Proposal:
 - a.____ Arithmetic checked?
 - b.____ Numerical Bid Prices agree with written Bid Prices?
 - c.____ Addendums acknowledged on bid form?
 - d.____ Signature portion completely filled out?
 - e.____ Include Montana Contractor's Registration #?
 - f.____ Bidders' General Information sheet filled out?
 - g.____ DUNS # requirement

- ____ 3) Bid Envelope?
 - a.____ Addressed Properly?
 - b.____ Include Montana Contractor's Registration #?
 - c.____ Acknowledged Receipt of Addenda?
 - d.____ Sealed?

- ____ 4) Bid submitted prior to required time at specified location?

ALL BID DOCUMENTS AND BONDS MUST BE ORIGINALS.

LEAVE ALL PROPOSAL SHEETS INTACT IN THE CONTRACT MANUAL

**THE ENTIRE CONTRACT MANUAL (BOUND BOOK) SHALL BE SUBMITTED WITH
BID PROPOSAL.**

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SECTION 00100 INVITATION TO BID

Notice is hereby given that sealed bids will be received at the City of Thompson Falls City Office at P.O. Box 99, 108 Fulton Street, Thompson Falls, Montana 59873 until 2:00 p.m. local time on Tuesday, October 8, 2019, for construction of the Ainsworth Community Park Project. Bids will be opened and publicly read aloud at the City Office immediately after bid closing.

The site of the work is located at the vacant lot at the intersection of Maiden Lane and Lincoln Street in the City of Thompson Falls, MT. The work includes construction of a public park located on 3.34 acres of City-owned land with improvements consisting of a pavilion, restroom, amphitheater seating, stage and structure, park perimeter trail, parking area, power and lighting, landscaping, irrigation system modifications, site amenities, and associated work.

The project is funded, in part, by the Community Development Block Grant Program (CDBG) and is subject to all applicable federal/state regulations, as indicated within the contract documents.

All work must be substantially completed within 120 calendar days after the commencement date stated in the notice to proceed. A winter shutdown will be allowed if necessary.

Contract Documents for use in preparing Bids may be reviewed or purchased from the Engineer upon receipt of a non-refundable deposit of \$85.00, payable to the Engineer, for each set of documents. The Engineer for this project is WGM Group, Inc., 431 1st Avenue West, Kalispell, MT 59901. In addition, contract documents may also be examined at the following locations:

Northwest Montana Plans Exchange - 2303 Highway 2 East, Kalispell, MT 59901

Missoula Plans Exchange - 201 N. Russell, Missoula, MT 59801

City of Thompson Falls City Office - 108 Fulton Street and website as follows:

<https://cityofthompsonfalls.com/>

Each bid or proposal must be accompanied by a Certified Check, Cashier's Check, or Bid Bond payable to the City of Thompson Falls, in an amount not less than ten percent (10%) of the total amount of the bid. Successful Bidders shall furnish an approved Performance Bond and a Labor and Materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount. Insurance, as required, shall be provided by the successful Bidder(s) and a certificate(s) of that insurance shall be provided.

Contractor and any of the contractor's subcontractors doing work on this project will be required to obtain registration with the Montana Department of Labor and Industry (DLI). Forms for registration are available from the Department of Labor and Industry, PO Box 8011, 1805 Prospect, Helena MT 59604-8011. Information on registration can be obtained by calling 1-406-444-7734. All laborers and mechanics employed by contractor or subcontractors in performance of the construction work shall be paid wages at rates as included within the contract documents. The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

The bidder shall guarantee the total bid price for a period of 60 calendar days from the date of bid opening.

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Prospective bidders are encouraged to attend a pre-bid conference on at 2:00 p.m. on Monday, September 30, 2019, which will be conducted by the Engineer via a conference call to the following number: 1-406-813-5058 (Conference ID: 43894).

All questions relative to this project prior to the opening of bids shall be directed to the Engineer. It shall be understood, however, that no specification interpretation will be made by telephone, nor will any "or equal" products be considered for approval prior to award of contract. The Engineer for this project is WGM Group, Inc. with questions addressed to Stephanie Reynolds, P.E.

The City of Thompson Falls reserves the right to reject any or all bids, to waive any informality in a bid, or to accept the lowest responsive and responsible bid and bidder, and to make awards in the interest of the Owner. Award of the project will be contingent upon securing appropriate financing and concurrence by CDBG.

The City of Thompson Falls is an Equal Opportunity Employer.

The *City of Thompson Falls* has received notice of the award of Community Development Block Grant funds from the Montana Department of Commerce. The City of Thompson Falls will soon commence implementation of the Ainsworth Community Park project.

CDBG regulations governing the grant require that to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to local lower-income residents. Further, to the greatest extent feasible, business concerns located in or substantially owned by residents of the project area will be utilized.

For more information, please contact the City of Thompson Falls at 108 Fulton Street, Thompson Falls, Montana or call (406) 827-3557.

Publication Notice Dates:

Kalispell Daily Interlake:
Sunday, September 15, 2019

Sanders County Ledger:
Thursday, September 26, 2019

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SECTION 00110
NOTICE OF AWARD

Dated _____, 20__

TO: _____
(Bidder)

ADDRESS: _____

PROJECT _____

OWNER'S CONTRACT NO. _____

CONTRACT FOR _____
(Insert name of Contract as it appears in the Bidding Documents)

You are notified that your Bid dated _____, 20____, for the above Contract has been considered. You are the apparent successful bidder and have been awarded a Contract for _____

(Indicate total Work, alternates or sections of Work awarded)

The Contract Price of your contract is _____ Dollars (\$_____).

_____ copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award. _____ sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within fifteen days of the date of this Notice of Award, that is by _____, 20____.

1. Deliver to the OWNER, _____ fully executed counterpart(s) of the Contract Documents. [Each of the Contract Documents must bear your signature on (_____)].
2. Deliver with the executed Contract Documents, the Contract security (Bonds) as specified in the Instructions to Bidders (Article 20), [and] General Conditions (paragraph 5.01) [and Supplementary Conditions (paragraph SC-5.01).]
3. (List other conditions precedent).

Failure to comply with these conditions, within the time specified, will entitle OWNER to consider your bid in default, to annul this Notice of Award and to declare your Bid Security forfeited. Within ten days after you comply with the above conditions, OWNER will return to you one fully executed counterpart of the Contract Documents.

(OWNER)

By _____
(AUTHORIZED SIGNATURE)

(TITLE)

COPY to ENGINEER

SECTION 00120
NOTICE TO PROCEED

DATED _____, 20__

TO: _____
(Contractor)

ADDRESS: _____

OWNER'S PROJECT NO. _____
PROJECT _____
OWNER'S CONTRACT NO. _____
CONTRACT FOR _____

You are notified that the Contract Time under the above contract will commence to run on _____, _____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Contract Documents, the date of Substantial Completion is _____.

Before you may start any Work at the site, Paragraph 2.01.B of the General Conditions provides that you must deliver to the OWNER (with copies to ENGINEER) certificates of insurance which you are required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start Work at the site, you must:

Copy to _____

(OWNER)

By _____
(AUTHORIZED SIGNATURE)

(TITLE)

**SECTION 00200
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 the 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. "Bidder" –The individual or entity who submits a Bid directly to Owner.
- B. "Issuing Office"—The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- C. "Successful Bidder"—The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluations as hereinafter provided) makes an award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents may be obtained from the Issuing Office in the number and format stated in the advertisement or Invitation to Bid.

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

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

2.04 The Bidding Documents include reference, amendments, and supplements to the Montana Public Works Standard Specifications (MPWSS), Sixth Edition, April 2010. Copies of the MPWSS may be obtained by contacting the Montana Contractors' Association, Inc., located at 1717 11th Ave, P.O. Box 4519, Helena, MT 59604, Phone - (406) 442-4162, Fax - (406) 449-3199.

ARTICLE 3 - QUALIFICATION OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five (5) days of OWNER's request, Bidder shall submit written evidence, such as financial data, previous experience in performing comparable work, present commitments and other such data as may be called for in the Special Provisions.

In determining the lowest responsible Bid, the following elements will be considered: whether the BIDDER involved (a) maintains a permanent place of business; (b) has adequate plant and equipment to do the work properly and expeditiously; (c) has a suitable financial status to meet obligations incident to the work; and (d) has appropriate technical experience.

Each BIDDER may be required to show that former work performed by him has been handled in such a manner that there are no just or proper claims pending against such work. No BIDDER will be acceptable if he is engaged on any other work which impairs his ability to

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finance his contract. The BIDDER shall demonstrate his ability by meeting all requirements herein stipulated, if asked for them.

Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA & SITE

4.01 Subsurface and Physical Conditions

- A. The Supplemental General 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 not included in this Contract Manual 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 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. OWNER and ENGINEER do not assume responsibility for the accuracy or completeness thereof unless expressly provided otherwise elsewhere.

4.03 Hazardous Environmental Condition

- A. The Special Provisions 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 not included in this Contract Manual 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 the Supplemental General Conditions have been identified and established in Paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any

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“technical data” or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Responsibility for Adequacy of Data Furnished

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

4.05 Access to the Site

- A. Upon 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 and compact all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.06 Other Work at the Site

- A. Reference is made to the Special Provisions for the identification of the general nature of other work that is to be performed at the Site by OWNER or others (such as utilities and other prime contractors, if any) that relates to the Work for which a Bid is to be submitted. On request, OWNER will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such work.

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

- A. Examine and carefully study the Bidding Documents including any Addenda and the other related data identified in the Bidding Documents;
- B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work; including but not limited to those general and local conditions affecting transportation, disposal, handling and storage facilities, availability of labor, water, power, roads, climactic conditions and seasons, physical conditions at the work Sites and project area as a whole, job site topography and ground conditions, equipment and facilities needed preliminary to and during work prosecution;
- 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;

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- 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 Special Provisions 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 Special Provisions 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 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, exploration, 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. Become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicted in the Bidding Documents;
- H. 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.
- I. 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 the Bidders; and
- J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- K. Agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

4.08 Representation Made by Submitting a Bid

- A. 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 or procedures of construction that may be

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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 Bidding Documents and the written resolutions thereof by ENGINEER are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

5.01 A Pre-Bid conference will be held at the time and place listed in the Invitation to Bid. Representatives of OWNER and ENGINEER will be present to discuss the project. Bidders are encouraged to attend and participate in the conference. ENGINEER will transmit to all prospective Bidders of record such Addenda as ENGINEER considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 - SITE AND OTHER AREAS

6.01 The site, to include right-of-ways and easements, 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 All questions about the meaning or intent of the Bidding Documents are to be submitted to ENGINEER in writing. Interpretations or clarifications considered necessary by ENGINEER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by ENGINEER as having received the Bidding Documents. Questions received less than two (2) 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.

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

7.03 Any addenda issued during the time of bidding must be covered in the Bid and included in the Contract Price in the Agreement. Receipt of each addendum shall be acknowledged in the Bid. Any Bid in which all issued addenda are not acknowledged may be considered incomplete.

ARTICLE 8 - BID SECURITY

8.01 A Bid must be accompanied by Bid Security made payable to OWNER in an amount of ten percent (10%) of Bidder's maximum Bid price and in the form of cash, a cashier's check, certified check, bank money order, or a Bid Bond (on a form attached if a form is prescribed) issued by a surety authorized to do business in Montana 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 and furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the

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Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within fifteen (15) 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 seven (7) days after the Effective Date of the Agreement or sixty-one (61) days after the Bid opening, whereupon Bid Security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven (7) days after Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be (a) Substantially Completed and (b) also completed and ready for final payment are set forth in the Bid Form and the Agreement Form.

ARTICLE 10 - LIQUIDATED DAMAGES

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

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is 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 Paragraphs 6.05 of the General Conditions and may be supplemented in the General Requirements or Special Provisions.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS AND OTHERS

12.01 If the Special Provisions require or the OWNER would request the identity of certain Subcontractors, Suppliers, individuals or entities to be submitted to OWNER in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five (5) days after Bid opening submit to OWNER a list of all such Subcontractors, Suppliers, individuals or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by OWNER. If OWNER or ENGINEER after due investigation has reasonable objection to any proposed Subcontractor, Supplier, individual or entity OWNER may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

12.02 If the apparent Successful Bidder declines to make any such substitution, the OWNER may determine such Bidder to be non-responsive and reject the Bid. Declining to make requested substitution 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 and 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

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after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

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

ARTICLE 13 - PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents; additional copies may be obtained from the ENGINEER. Bids shall be strictly in accordance with the prescribed form. Any modifications thereof or deviations there from may be considered as sufficient cause for rejection. Bids carrying riders or qualifications to the Bid being submitted may be rejected as irregular.

13.02 All blanks on the Bid Form shall be completed by printing in ink and the Bid signed in ink. A Bid price shall be indicated for each Bid item listed therein, or the words "No Bid" or "Not Applicable" entered.

13.03 A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

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

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

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

13.08 All signatures are to be in ink, and names must be printed in ink below the signature.

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form). Bids in which all issued addenda are not acknowledged will be considered incomplete and will not be read.

13.10 The address and telephone number for communications regarding the Bid must be shown.

13.11 Submit the entire bound project manual with the Bid. Documents submitted with or attached to the proposal form are a part of the Bid. Do not detach or alter attached documents when the bid package is submitted.

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

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ARTICLE 14 - BASIS OF BID; EVALUATION OF BIDS

14.01 Bids.

- A. Bidders shall submit a Bid on a unit price and/or lump sum basis for each item of Work listed in the Bid Schedule as provided in the Bid Form. The Bid will not be considered unless the Bid Form contains all Unit Prices or lump sum, and alternates as shown on the Bid Form, Bids and totals are shown legibly in their proper locations. The Total Amount of the Bid shall be legibly written and numerically presented in the proper places and the Bid Form shall be manually signed.
- 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 unit price Bid for the item. The final quantities and Contract Price will be determined in accordance with Article 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices shall 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 for the bid total or any subtotals will be resolved in favor of the correct sum based on the unit prices.

ARTICLE 15 - SUBMITTAL OF BID

15.01 Each prospective Bidder is furnished one copy of the Bidding Documents. The Bid Form is to be completed and submitted with the Bid security (and returned within the fully bound project manual) along with the following additional documents:

- A. Acknowledgement of any Addenda/Addendums
- B. Bidder General Information Form (included with Bid Form)
- C. Other data that may be specified by the Instructions to Bidder, Bid Form, Supplementary Conditions or Bidding Documents.

15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, plainly marked with the Project title, the name and address of Bidder, Bidder's registration number, and shall be accompanied by the Bid Security and other required documents as specified. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED". A mailed Bid shall be addressed to the address shown in the Invitation to Bid.

15.03

- A. The Bid will not be considered unless accompanied by proper Bid Security in accordance with Article 8 of these Instructions to Bidders.
- B. Alternative Bids will not be considered unless called for.

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- C. Bids by telephone, telegraph, fax or other telecommunication systems will not be considered.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BIDS

16.01 Bids 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 as called for in the Invitation to Bid. Requests for modification or withdrawal must be written and must be signed in the same manner and by the same person(s) who signed the Bid.

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

ARTICLE 17 - OPENING OF BIDS

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

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19 - AWARD OF CONTRACT

19.01 OWNER reserves the right to reject any and all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsive. OWNER also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder. OWNER reserves the right to reject the Bid of any Bidder if OWNER believes it would not be in the best interest of the Project to make an award to that Bidder whether because Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by OWNER.

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

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

19.04 In evaluating Bidders, OWNER will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors,

AINSWORTH COMMUNITY PARK PROJECT

Suppliers, and other individuals or entities must be submitted as provided in the Special Provisions.

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

19.06 If the Contract is to be awarded, OWNER will award the Contract to the responsible Bidder whose Bid, conforming with all material terms and conditions of the Bidding Documents, is lowest price, in the best interest of the Project, and other factors considered. The OWNER reserves the right to accept or reject the Bids, or portions of Bids if denoted in the Bid as separate schedules, and to award more than one Bid or schedule for the same Bid if any of the aforementioned combination of Bids or schedules will be in the best interest of the OWNER.

19.07 The OWNER reserves the right to cancel the award of any Agreement at any time before the complete execution of said Agreement by all parties without any liability against the OWNER. Without limiting the foregoing, it is expressly stated that final award of the Contract is contingent upon securing appropriate financing.

ARTICLE 20 - CONTRACT SECURITY

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

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall 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 fifteen (15) days thereafter, Successful Bidder shall sign and deliver the Agreements and attached documents to OWNER with the required Bonds and certificate of insurance verifying compliance with insurance requirements of the Contract and/or any statutes or ordinances. Within fifteen (15) days thereafter OWNER shall deliver at least one fully signed counterpart to Successful Bidder with a complete set of the Drawings and Specifications.

ARTICLE 22 - STATE LAWS AND REGULATIONS

22.01 All applicable laws, ordinances and the rules and regulations of authorities having jurisdiction over construction of the project shall apply to the Contract throughout. State laws and ordinances which the CONTRACTOR must comply with, include but are not limited to, those involving workmen's compensation insurance, CONTRACTOR registration, and gross receipts tax. The contractor must also comply with all applicable state and federal occupational disease and health and safety laws and regulations.

22.02 The Montana Contractor Preference statute, Section 18-1-102, MCA, is NOT applicable to Montana public construction contracts funded in whole or part with CDBG funds -- as determined by the Attorney General in an opinion (Volume 42, number 35) issued during November of 1987.

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ARTICLE 23 - NON-COLLUSION

23.01 The firm or individual submitting the proposal certifies that it has not, by or through any of its officers, partners, owners, or any other person associated therewith, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this project, and is not financially interested in or otherwise affiliated in a business way with any other Bidder on this project.

ARTICLE 24 - PRECONSTRUCTION CONFERENCE

24.01 After the contract(s) have been awarded, but before the start of construction, a conference will be held for the purpose of discussion requirements on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated.

ARTICLE 25 - MONTANA CONTRACTOR REGISTRATION REQUIREMENT AND WORKER'S COMPENSATION REQUIREMENTS

25.01 Title 39, Chapter 9, Part 2, MCA provides that no Contractor may submit a bid unless properly registered with the Montana Department of Labor and Industry (DOLI). No bids will be considered that do not carry the bidder's Montana Contractor's Registration Number on the envelope containing the bid and on the bid.

25.02 MCA 39-9-201 through 39-9-211 sets out contractor registration requirements with the State of Montana. Contractors and any of the contractor's subcontractors doing work on a project are required to register with the DOLI. Forms for registration are available from the Department of Labor and Industry, P. O. Box 8011, 1805 Prospect, Helena, Montana 59604-8011. Information on registration can be obtained by calling 1-406-444-7734.

25.03 All laborers and mechanics employed by the contractor or subcontractors in performance of the construction work shall be paid wages at rates as may be required by the federal Davis Bacon prevailing wage and reporting requirements. The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

25.04 The Contractor certifies that workers' compensation insurance will be maintained as required by the Montana Workers' Compensation Act (39-71-101, MCA). The Contractor further certifies that the Contractor will comply at all times with occupational disease and health and safety laws and regulations to the full extent applicable.

ARTICLE 26 - GROSS RECEIPTS TAX

26.01 Pursuant to Section 15-50-206(2)(3), MCA, the governmental agency issuing the contract is required to withhold one percent (1%) of all payments due the CONTRACTOR and is required to transmit such moneys to the Montana Department of Revenue as part of the

AINSWORTH COMMUNITY PARK PROJECT

public CONTRACTOR's license fee. In like fashion, the CONTRACTOR is required to withhold one percent (1%) from payments to subcontractors.

ARTICLE 27 - TIME FOR BEGINNING WORK AND COMPLETION OF WORK

27.01 The construction period for the work is based on calendar days stipulated in the contract documents. The CONTRACTOR will be issued a written "Notice to Proceed" following the "Notice of Award" and review and approval of the contract, contract bonds and insurance certificate. Construction calendar day's number one (1) shall be the day stated in the "Notice to Proceed." The project shall be completed within the calendar days stipulated in the contract documents.

ARTICLE 28 - NOTICE OF EXTENDED PAYMENT PROVISION

28.01 Pursuant to MCA 28-2-2115, Bidders are hereby notified that this contract allows the Owner to make payment within 30 days after approval of the payment request or as otherwise stipulated in the Supplementary Conditions to the General Conditions. This provision is due to anticipated processing periods associated with funds to be received from state and federal grant and loan agencies.

ARTICLE 29 - FUNDING AGENCY SPECIAL PROVISIONS

29.1 The Bidder's attention is called to the requirements of Section 00900 "FUNDING AGENCY SPECIAL PROVISIONS", and 00910 "PREVAILING WAGE RATE DETERMINATION" of the Contract Documents. Bidder shall be required to comply with all special provisions and prevailing wage rates included within these sections. The provisions address the following:

29.2 Requirements for Reports, Information, and Access to Records

29.3 Contractor Eligibility and Certification Regarding Debarment

29.4 Contractor Registration and Worker's Compensation Requirements

29.5 Minimum Wage Requirements

Montana Federal Davis-Bacon Prevailing Wage Rate Provisions, Section 00910, are applicable for this contract. Award of the contract shall be conditioned upon the acceptance of the wage determination by CDBG.

Contractor and all Subcontractors must maintain certified payrolls for a period of not less than 3 years from the completion of work and post a statement of all wages and fringe benefits and a Davis-Bacon poster (WH-1321) at the site of the work.

The Contractor must submit certified payrolls for all employees and employees of Subcontractors to the Engineer within one week of issuing each respective payroll.

29.6 Compliance with State and Federal Laws and Regulations

29.7 Project Sign Requirements

29.8 Gross Receipts Withholding Requirements

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- 29.9 Compliance with Clean Air and Clean Water Acts, Executive Order 11738 and EPA Regulations:
- 29.10 Equal Employment Opportunity Provisions
- 29.11 Uniform Federal Accessibility Standards (UFAS)
- 29.12 Certification of Compliance with Federal Clean Air and Water Acts (Applicable to Federally Assisted Construction Contracts and Related Sub-Contracts Exceeding \$100,000.)
- 29.13 Preconstruction Conference Requirements
- 29.14 Contract Pricing Requirements
- 29.15 EXHIBIT B - HUD Form 4010-Federal Labor Standards Provisions .

ARTICLE 30 - PROJECT ADMINISTRATION

30.01 The project will be administered in compliance with the Community Development Block (CDBG) Program's Grant Administration Manual (2018). This manual can be viewed at the following website -

<http://comdev.mt.gov/Programs/CDBG/Facilities/GrantAdministration>

ARTICLE 31 - DUN & BRADSTREET REGISTRATION (DUNS)

31.01 Bidder shall be required to provide their DUNS number on the Bid Form. Bidders that do not currently have a DUNS number can register at the following website -

<http://fedgov.dnb.com/webform/pages/CCRSearch.jsp>.

END OF SECTION 00200

**SECTION 00500
AGREEMENT FORM**

This Agreement is dated as of the ____ day of _____ in the year 2019, by and between the City of Thompson Falls, MT, hereinafter called "OWNER" and _____, hereinafter called CONTRACTOR. OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work generally includes the following:

The work includes construction of a public park located on 3.34 acres of City-owned land with improvements consisting of a pavilion, restroom, amphitheater seating, stage and structure, park perimeter trail, parking area, power and lighting, landscaping, irrigation system modifications, site amenities, and associated work.

Article 2. THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: AINSWORTH COMMUNITY PARK PROJECT.

Article 3. ENGINEER

3.01 The project has been designed by:

WGM Group, Inc.
431 1st Ave West
Kalispell, MT 59901

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 4. CONTRACT TIME

4.01 Time of the Essence

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

4.02 Days to achieve Substantial Completion

A. The Contract Time, specified in number of calendar days, is: 120 Calendar Days

B. The Work will be substantially complete, as defined within the Special Provisions, within the number of days (as specified above) after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions.

4.03 Liquidated Damages

- A. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete.

Article 5. CONTRACT PRICE

- 5.01 Owner shall pay CONTRACTOR for completion of the work in accordance with the Contract Documents an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the quantity of that item that is constructed and accepted. Unit prices are those listed in the Unit Price Schedule of the Bid Form, Section 00300. Estimated quantities used for bidding purposes are not guaranteed, payment will be for actual quantities as determined by ENGINEER or Owner in accordance with Article 9.07 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

Article 6. PAYMENT PROCEDURES

- 6.01 Submittal and Processing of Payments:

- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions, as supplemented by the Supplementary General Conditions. Applications for Payment will be processed by ENGINEER as provided in the Contract Documents.

- 6.02 Progress Payments; Retainage

- A. OWNER shall make progress payments in accordance with Article 14 of the General Conditions on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, once each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the number of units of each bid item completed times the bid unit price in the Unit Price Schedule of the Bid Form for that item.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the sum of the unit price items less the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.
 - a. The OWNER shall retain five percent (5%) of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents.

- b. Retainage will be five percent (5%) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.02 of the General Conditions).
2. Upon Substantial Completion and at the OWNER'S discretion, the amount of retainage may be further reduced if requested by the CONTRACTOR.
3. Each application for payment shall be accompanied by an executed lien release form from the General Contractor. Upon request and prior to issuing final payment of the project, lien releases must be received from any Subcontractor and Supplier performing work on the project. Lien release shall be in a format acceptable to the Owner.

6.03 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

Article 7. INTEREST

7.01 All amounts not paid when due shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 8. CONTRACTOR'S REPRESENTATION

8.01 In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents (including all Addenda) listed in paragraph 9 and the other related data identified in the Bidding Documents.
- B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.
- C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions 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 General Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Special Provisions as provided in paragraph 4.06 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

- E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR including applying the specific means, methods, techniques, sequences and procedures of construction, if any, expressly required by the Contract Documents to be employed by the CONTRACTOR, and safety precautions and programs incident thereto.
- F. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.
- G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.
- H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 9. CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. Invitation to Bid (page 1 to 2, inclusive);
 - 2. Instructions to Bidders (pages 1 to 13, inclusive);
 - 3. This Agreement (pages 1 to 7, inclusive);
 - 4. Performance Bond (pages 1 to 2, inclusive);
 - 5. Payment Bond (pages 1 to 2, inclusive);
 - 6. Bid Bond (pages 1 to 2, inclusive);
 - 7. Bid Form (pages 1 to 12, inclusive);

8. General Conditions (pages 1 to 62, inclusive);
 9. Supplementary Conditions (pages 1 to 18, inclusive, Appendix A inclusive, and Appendix B inclusive);
 10. Funding Agency Special Provisions (Section 00900 inclusive)
 11. Federal Davis Bacon Wage Rates (Section 00910, inclusive);
 12. Specifications bearing the title "Montana Public Works Standard Specifications, Sixth Edition, dated April 2010, as amended";
 13. Special Provisions and Specifications as listed in the table of contents in the Project Manual
 14. Drawings consisting of sheets bearing the general title: AINSWORTH COMMUNITY PARK PROJECT
 15. Addenda (numbers _ to _, inclusive);
 16. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed (pages 1 to 1, inclusive);
 - b. Notice of Award (pages 1 to 1, inclusive);
 - c. CONTRACTOR's Bid (pages 1 to 13, inclusive);
 17. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).
- B. The documents listed in paragraph 9.01.A. are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.04 of the General Conditions.

Article 10. MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

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

assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

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

10.04 Severability

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

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.
This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Party of the First Part:
OWNER

City of Thompson Falls
108 Fulton Street
Thompson Falls, MT 59873

ATTEST:

By: _____

Mayor

City Clerk

(Seal)

Party of the Second Part:
CONTRACTOR

_____ Contractor
Street
MT _____

By: _____

(signature)

ATTEST:

Title: _____

(Secretary)

(Seal of Corporation)

The foregoing Contract, including all contract documents which are a part thereof, is in due form and content, according to law, and is hereby approved.

Attorney for the City of Thompson Falls

**SECTION 00610
PERFORMANCE BOND**

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

CONTRACTOR (Name and Address): _____ SURETY (Name and Address of Principal Place of Business): _____

OWNER (Name and Address): _____

CONTRACT

Effective Date of Agreement: _____

Amount: _____

Description (Name and Location): _____

BOND

Date (Not earlier than Effective Date of Agreement): _____

Amount: _____

Modifications to this Bond Form: _____

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reversed side hereof, do each cause this Performance Bond to be duly an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(Seal)

(Seal)

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

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

AINSWORTH COMMUNITY PARK PROJECT

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.
2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 3.1 Owner has notified Contractor and Surety at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default, and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 3.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and
 - 3.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; and
 2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.
4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
 - 4.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefor.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
6. After Owner has terminated Contractor's right to complete the Contract and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
 - 6.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.
8. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to Surety, Owner or Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions:
 - 12.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
 - 12.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 12.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
 - 12.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY – (Name, Address and Telephone):

Surety Agency or Broker:

Owner's Representative (Engineer or other party):

SECTION 00430 - BID BOND

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

BIDDER (*Name and Address*):

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

OWNER (*Name and Address*):

BID

Bid Due Date:

Description (*Project Name— Include Location*):

BOND

Bond Number:

Date:

Penal sum

\$

(Words)

(Figures)

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

BIDDER

SURETY

(Seal)

(Seal)

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

By:

Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest:

Signature

Attest:

Signature

Title

Title

Note: Addresses are to be used for giving any required notice.

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

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

SECTION 00300
BID FORM

PROJECT IDENTIFICATION AND NUMBER:

Project Name: Ainsworth Community Park Project
CDBG Project Number: #MT-CDBG-17PF-13
Engineer Project Number: 17-07-25

THIS BID SUBMITTED TO:

City of Thompson Falls
City Office
P.O. Box 99
108 Fulton Street
Thompson Falls, 59873

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

2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders. This Bid will remain subject to acceptance for sixty (60) days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

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

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

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions 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 (2) reports and drawings of a Hazard Environmental Condition, if any, which has been identified in the Special

AINSWORTH COMMUNITY PARK PROJECT

Provisions as provided in Paragraph 4.06 of the General Conditions.

- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site 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 expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of the Work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work for which this Bid is submitted.
- K. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

4.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

The Bidder certifies that no official of the Owner, Engineer, or any member of such official's immediate family, has direct or indirect interest in the pecuniary profits or Contracts of the Bidder.

5.01 The Bidder will complete the Work in accordance with the Contract Documents for the following price(s). (**NOTE: 1% Montana Gross Receipts Tax shall be included in Unit Prices**)

AINSWORTH COMMUNITY PARK PROJECT

RECREATIONAL AMENITIES					
3.1	Trash Receptacles	2	EA		
3.2	Dog Waste Station	1	EA		
3.3	Bike Rack	3	EA		
3.4	Bike Fix-it Station with Air Pump and Gauge	1	EA		
DRY UTILITIES					
4.1	Restroom Electrical Service & Pavilion Lighting	1	LS		
4.2	Amphitheater Stage Service & Power Outlet Panel	1	LS		
LANDSCAPING					
5.1	Drill Seeding	91,450	SF		
5.2	Topsoil	1,000	CY		
5.3	Irrigation System Adjustments and Reconfiguration	1	LS		
5.4	Tree Landscaping	14	EA		
5.5	Placement of City-Supplied Boulders	6	EA		

TOTAL ESTIMATED PRICE BASE BID \$ _____
(Figures)

TOTAL ESTIMATED PRICE BASE BID \$ _____
(Words)

ADDITIVE BID ALTERNATES - UNIT PRICE BID SCHEDULE

BID ALTERNATE 1 - AMPHITHEATER STAGE STRUCTURE					
Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 1.1*	REMOVE 3/8" Minus Crushed Gravel	-5	CY		
ALT 1.2	ADD Prefabricated Amphitheater Stage Structure and Concrete Pad	1	LS		
ALT 1.3	ADD Amphitheater Stage Structure Lighting	1	LS		

*ALL UNIT PRICES FOR NOTED ITEMS MUST MATCH THE BASE BID UNIT PRICES.

TOTAL BID ALTERNATE 1 \$ _____
 (Figures)

TOTAL BID ALTERNATE 1 \$ _____
 (Words)

BID ALTERNATE 2 - ADDITIONAL LANDSCAPING					
Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 2.1	ADD Shrub Landscaping	20	EA		
ALT 2.2	ADD Perennial Landscaping	40	EA		
ALT 2.3	ADD Aluminum Landscape Edging	550	LF		
ALT 2.4	ADD Shredded Cedar Mulch (2" Depth) and Weed Barrier	3650	SF		

*ALL UNIT PRICES FOR NOTED ITEMS MUST MATCH THE BASE BID UNIT PRICES.

TOTAL BID ALTERNATE 2 \$ _____
 (Figures)

TOTAL BID ALTERNATE 2 \$ _____
 (Words)

BID ALTERNATE 3 - SITE FURNITURE					
Item Number	Description	Quantity	Unit	Unit Price	Total
3.1	ADD Benches	4	EA		
3.2	ADD Metal Picnic Tables	4	EA		
3.3	ADD Relocate Existing Veteran's Memorial Benches	2	EA		

TOTAL BID ALTERNATE 3 \$ _____
 (Figures)

TOTAL BID ALTERNATE 3 \$ _____
 (Words)

AINSWORTH COMMUNITY PARK PROJECT

BID ALTERNATE 4 - BOLLARD AND PARK ENTRY SIGN LIGHTING

Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 4.1	ADD Light Bollards	5	EA		
ALT 4.2	ADD Flood Light for Park Entry Sign	1	EA		
ALT 4.3	ADD Wiring/Trenching	760	LF		

TOTAL BID ALTERNATE 4 \$ _____
 (Figures)

TOTAL BID ALTERNATE 4 \$ _____
 (Words)

BID ALTERNATE 5 - PARKING LOT LIGHTING

Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 5.1	ADD Parking Lot Area Light Poles	3	EA		

TOTAL BID ALTERNATE 5 \$ _____
 (Figures)

TOTAL BID ALTERNATE 5 \$ _____
 (Words)

BID ALTERNATE 6 - PAVED TRAIL & ADA RESERVED PARKING STALLS

Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 6.1*	REMOVE 3/8" Minus Gravels (base bid gravel surfacing)	-48	CY		
ALT 6.2	ADD Asphalt Pavement (2.5" depth)	7580	SF		
ALT 6.3	ADD Parking Lot Striping (for ADA reserved parking)	1	LS		

*ALL UNIT PRICES FOR NOTED ITEMS MUST MATCH THE BASE BID UNIT PRICES.

TOTAL BID ALTERNATE 6 \$ _____
 (Figures)

TOTAL BID ALTERNATE 6 \$ _____
 (Words)

AINSWORTH COMMUNITY PARK PROJECT

BID ALTERNATE 7 - PAVED PARKING AREA

Item Number	Description	Quantity	Unit	Unit Price	Total
ALT 7.1*	REMOVE 3/4" Minus Gravels (base bid gravel surfacing amount within the paved parking area shown on plans excluding ADA reserved parking area)	-77	CY		
ALT 7.2	ADD Asphalt Pavement (2.5" depth) (excluding ADA reserved parking)	8230	SF		
ALT 7.3	ADD Parking Lot Striping (excluding ADA reserved parking)	1	LS		

*ALL UNIT PRICES FOR NOTED ITEMS MUST MATCH THE BASE BID UNIT PRICES.

TOTAL BID ALTERNATE 7 \$ _____
(Figures)

TOTAL BID ALTERNATE 7 \$ _____
(Words)

TOTAL ESTIMATED PRICE BID ALTERNATES 1 - 7 \$ _____
(Figures)

TOTAL ESTIMATED PRICE BID ALTERNATES 1 - 7 \$ _____
(Words)

TOTAL ESTIMATED BASE BID PLUS ADDITIVE ALTERNATES 1 - 7:

\$ _____
(Figures)

\$ _____
(Words)

CONTRACT TIME = 120 DAYS TO ACHIEVE SUBSTANTIAL COMPLETION

Note: No addition or deduction in contract time will be made with the selection of any bid alternates.

CONTRACTOR'S MONTANA REGISTRATION # _____

DUN & BRADSTREET REGISTRATION (DUNS) # _____

AINSWORTH COMMUNITY PARK PROJECT

- A. Unit Prices have been computed in accordance with Article 11.03 of the General Conditions.
- B. BIDDER acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.
- C. The undersigned agrees that the unit prices shall govern in checking the Bid. Should a discrepancy exist in the multiplication of units of Work and unit prices, the discrepancy shall 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 for the bid total or any subtotals, will be resolved in favor of the correct sum based on the unit prices.
- D. The purpose of the bid alternates is to give the Owner maximum flexibility in obtaining the greatest possible amount of work within the limits of the funds available. **In determining the lowest responsive Bidder, the low bid shall be determined on the basis of the lowest base bid plus any combination of bid alternates that Owner accepts (if any). Owner may accept in any order; any, all, or none of the bid alternates.**
- E. The OWNER reserves the right to reject any or all bids, to waive any informality in a bid, or to accept the lowest responsive and responsible bid and bidder, and to make Award in the best interest of the Owner.

6.01 BIDDER agrees that the Work will be substantially completed and ready for final payment in accordance with 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement (Section 00500).

6.02 BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.

7.01 The following documents are attached to and made a condition of the Bid:

- A. Required Bid security in the amount of ten percent (10%) of the maximum Bid price including alternates and in the form of a Bid Bond identified in the Instructions to Bidders (Article 8).
- B. Information Required of Bidder - General Information (form attached).

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

9.01 The undersigned by signing this proposal acknowledges that he has read the Debarment section of the Funding Agency Special Provisions (section 00900) relating to the ineligibility of bidders and certifies that the Bidder has complied.

AINSWORTH COMMUNITY PARK PROJECT

SUBMITTED on _____

Montana Contractor's Registration # _____

Employer's Tax ID No. _____

If BIDDER is:

An Individual: _____
(Name typed or printed)

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business Address: _____

Phone No.: _____ FAX No: _____

A Partnership: _____
(Partnership Name)

By: _____ (SEAL)
(Signature)

(Name, typed or printed)

Business Address: _____

Phone No.: _____ FAX No: _____

A Corporation: _____ (SEAL)
(Corporation Name)

State of Incorporation: _____

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

By: _____
(Signature of person authorized to sign)

Title: _____

AINSWORTH COMMUNITY PARK PROJECT

Attest: _____ (CORPORATE SEAL)
(Signature of Secretary)

Business Address: _____

Phone No.: _____ FAX No: _____

Date of Qualification To Do Business Is: _____

A Joint Venture: Each Joint Venture Must Sign

Joint Venturer Name: _____ (SEAL)
(Name)

By: _____
(Signature of Joint Venture Partner)

Name: _____
(Name, printed or typed)

Title: _____

Business Address: _____

Phone No.: _____ FAX No: _____

A Joint Venture: Each Joint Venture Must Sign

Joint Venturer Name: _____ (SEAL)
(Name)

By: _____
(Signature of Joint Venture Partner)

Name: _____
(Name, printed or typed)

Title: _____

Business Address: _____

Phone No.: _____ FAX No: _____

AINSWORTH COMMUNITY PARK PROJECT

Address of Joint Venture for Receipt of Official Communication:

Address: _____

Phone No.: _____ FAX No: _____

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

AINSWORTH COMMUNITY PARK PROJECT

BID FORM

INFORMATION REQUIRED OF BIDDER

GENERAL INFORMATION

The bidder shall furnish the following information. Failure to comply with this requirement will render the Bid non-responsive and may cause its rejection. Additional sheets shall be attached as required.

(1) Contractor's name and address:

(2) Contractor's telephone number: _____

(3) Contractor's State License No.: _____

(4) Number of years as a contractor in construction work of this type: _____

(5) Names/titles of PM and Superintendent of Contractor's firm responsible for this project:

(6) Name of person who inspected site of proposed work for your firm:

Name: _____

Date of inspection: _____

(7) Name, address and telephone number of surety company and agent who will provide the required bonds on this contract:

(8) A financial statement, or AIA Document A305 Contractor's Qualification Statement, references, and other information, sufficiently comprehensive to permit an appraisal of Contractor's current financial condition, can be requested by the Owner or Engineer, and must be provided by the Contractor upon request.

END OF SECTION 00300

**SECTION 00620
PAYMENT BOND**

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

CONTRACTOR (Name and Address):

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

OWNER (Name and Address):

CONTRACT

Effective Date of Agreement: _____

Amount: _____

Description (Name and Location): _____

BOND

Bond Number: _____

Date (Not earlier than Effective Date of Agreement): _____

Amount: _____

Modifications to this Bond Form: _____

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reversed side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(Seal)

(Seal)

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

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

AINSWORTH COMMUNITY PARK PROJECT

1. Contractor and Surety jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits by alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1. Send an answer to that Claimant with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2. Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
 - 15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

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

AINSWORTH COMMUNITY PARK PROJECT

DIVISION B

GENERAL CONDITIONS
SUPPLEMENTARY CONDITIONS TO THE GENERAL
CONDITIONS

AINSWORTH COMMUNITY PARK PROJECT

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

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

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AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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**STANDARD GENERAL CONDITIONS OF THE
CONSTRUCTION CONTRACT**

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

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

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

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

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

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

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

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 Delivery of Bonds and Evidence of Insurance

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

2.02 Copies of Documents

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

2.03 Commencement of Contract Times; Notice to Proceed

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.07 *Initial Acceptance of Schedules*

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

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

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

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*

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

B. *Resolving Discrepancies:*

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

3.04 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

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

3.06 *Electronic Data*

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

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

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the

Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

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

4.02 *Subsurface and Physical Conditions*

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

- 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
- 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

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

- 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
- 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
- 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

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

- 1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
- 2. is of such a nature as to require a change in the Contract Documents; or

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

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

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

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other

professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

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

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price

or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by

Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

ARTICLE 5 – BONDS AND INSURANCE

5.01 Performance, Payment, and Other Bonds

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

5.02 Licensed Sureties and Insurers

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

5.03 Certificates of Insurance

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

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

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:

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

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property

insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery

against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

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

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

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

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

6.02 *Labor; Working Hours*

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

6.03 *Services, Materials, and Equipment*

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

6.04 *Progress Schedule*

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

6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

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

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

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or

other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all

court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

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

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

- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor

shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

6.12 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

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

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*
 - a. Submit number of copies specified in the General Requirements.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.
 2. *Samples:*
 - a. Submit number of Samples specified in the Specifications.
 - b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.
- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Submittal Procedures:*
1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop

Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

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

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

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

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
 6. any inspection, test, or approval by others; or
 7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor,

Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

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

7.02 *Coordination*

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

7.03 *Legal Relationships*

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

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

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

9.02 *Visits to Site*

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

and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

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

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

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

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

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

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

9.07 *Determinations for Unit Price Work*

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

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

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

9.09 *Limitations on Engineer's Authority and Responsibilities*

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

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

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

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

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

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

10.04 *Notification to Surety*

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

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The

opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

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

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

11.01 Cost of the Work

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on

Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

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

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

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

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

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

11.02 *Allowances*

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

B. *Cash Allowances:*

1. Contractor agrees that:

- a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
- b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

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

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

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

- c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
- d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

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

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the

control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 Notice of Defects

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

13.02 Access to Work

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

13.03 Tests and Inspections

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.

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

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

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

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute

resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and

equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

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

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 Schedule of Values

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

14.02 Progress Payments

A. Applications for Payments:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the

Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

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

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or

- b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

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

D. Reduction in Payment:

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or

- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

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

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities

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

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

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment:*

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

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

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

C. *Payment Becomes Due:*

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

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

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

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

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

15.02 *Owner May Terminate for Cause*

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

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

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

15.03 *Owner May Terminate For Convenience*

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

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 Methods and Procedures

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

ARTICLE 17 – MISCELLANEOUS

17.01 Giving Notice

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

17.02 Computation of Times

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

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

SECTION 00810

SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS

Delete Section 00810 "SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS" in its entirety within the Montana Public Works Standard Specifications, Sixth Edition, April 2010, as amended, and replace with the following SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS.

This contract will be constructed and administered under the requirements of the Montana Public Works Standard Specifications (MPWSS), Sixth Edition, April 2010, and all supplemental documents. These Supplementary Conditions to the General Conditions amend or supplement the Standard General Conditions (Section 00700) of the Construction Contract from the Montana Public Works Standard Specifications, Sixth Edition, April 2010, as amended. The General Conditions are the Engineer's Joint Council Documents Committee (EJCDC) General Conditions of the Contract (No. C-700, 2007 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

SC-1.01 DEFINED TERMS

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions and as follows:

Add the following to the end of paragraph 101.A.2:

"The definition of the word "Contract" is synonymous with the word "Agreement" and is used interchangeably in the Contract Documents."

Amend 101.A.12 to include as Contract Documents the following:

"...Performance Bond, Payment Bond, Notice of Award, these Supplementary Conditions to the General Conditions, Permits approved and pending..."

ARTICLE 2 - PRELIMINARY MATTERS

SC-2.01 DELIVERY OF BONDS AND EVIDENCE OF INSURANCE

Add the following to Paragraph: 2.01.A

"The Engineer shall furnish to the Contractor four (4) copies of the Agreement and other Contract Documents bound therewith. The Contractor shall execute the Agreement, insert executed copies of the required Bonds, Power of Attorney, and Certificate of Insurance and submit all copies to the Engineer who will forward them to them the Owner. The Owner shall execute all copies and return one (1) copy to the Contractor. The Owner shall also furnish a counterpart or conformed copy to the Engineer and shall retain two (2) copies."

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Delete the beginning of the first sentence of Paragraph 2.01.B. and replace with the following:

“B. Evidence of Insurance: Before the Owner will execute the Agreement and before any work at the site is started,…”

SC-2.02 COPIES OF DOCUMENTS

Add the following to Paragraph 2.02.A:

“The Contractor shall be furnished five (5) half-size and two (2) full size copies of the plans and Contract documents. Additional sets are available for \$80.00 each.”

SC-2.03 NOTICE TO PROCEED

Delete the first sentence of Paragraph 2.03A of the General Conditions and insert the following in its place:

“Following the execution of the Agreement by the Owner and the Contractor, written Notice to Proceed with the Work shall be given by the Owner to the Contractor. The Contract Time will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the effective date of the agreement.”

SC-2.05 BEFORE STARTING CONSTRUCTION

Add a new paragraph immediately after paragraph 2.05.A.3 of the General Conditions, which is to read as follows:

“2.05.A.4 the Contractor shall submit a preliminary list of construction equipment with hourly rates, owned or rented by the Contractor and all Subcontractors that will be used in the performance of the Work. The equipment list will include information necessary to confirm the hourly rates per Paragraph 11.01.A.5.c of the General Conditions and these Supplementary Conditions including: make, model, and year of manufacture as well as the horse power, capacity or weight, and accessories.”

Add a new paragraph immediately after paragraph 2.05.A.4 of the General Conditions, which is to read as follows:

“2.05.A.5 Where a Contract is awarded on a lump sum basis, the Contractor shall file with the Engineer a balanced price segregation of his lump sum bid into items similar to the various subdivisions of the general and detailed specifications, the sum of which shall equal the lump sum bid. The cost of various materials shall be furnished upon request of the Engineer and such data will then be used as a basis for making progress estimates. Breakdown cost itemized specification section and trade, and distribute cost to individual applicable units and specific series or, identification number, utilize said designation throughout cost breakdown. Provide detailed breakdown for individual yard piping or conduit runs and identify approximate quantities involved to satisfaction of the Engineer. Provide separate breakdown for change order items or items requested. Provide an additional breakdown sheet, equivalent to AIA document G703, showing the tabulation format for stored materials. Submit this sheet each month with the Contractor’s pay request breakdown. The detail and format of cost breakdown and stored materials tabulation sheet shall be fully approved by the Engineer.”

SC-2.07 INITIAL ACCEPTANCE OF SCHEDULES

Delete the first paragraph of 2.07.A in its entirety and insert the following in its place:

“Prior to the first application for payment all schedules and documents identified in paragraph 2.05.A shall be finalized and acceptable to the Engineer and the Owner. No progress payment shall be made to the Contractor until the schedules are submitted to and acceptable to the Engineer and the Owner as provided below. The progress schedule shall be CPM form or other acceptable format that shows estimated time for each work item, and starting and completion dates for each part of the Work. Acceptance of these schedules and documents by either the Engineer or the Owner will neither impose on the Engineer or the Owner responsibility for the sequencing, scheduling or progress of the Work and will not interfere with or relieve the Contractor from the Contractor’s full responsibility therefore.”

Add the following after Paragraph 2.07.A.3

“The Contractor’s Schedule of Equipment will be acceptable to the Engineer as to form and substance if it provides the necessary information to reference the equipment and establish the hourly rates in accordance with paragraph 11.01.A.5.c.”

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.01. INTENT

Add the following paragraphs after paragraph SC-3.01C, which are to read as follows:

- “D. The Specifications may vary in form, format and style. Some specification sections are written in varying degrees of streamlined or declarative style and some sections may be relatively narrative by comparison. Omissions of such words and phrases as “the Contractor shall,” in conformity with “as shown,” or “as specified” are intentional in streamlined sections. Omitted words and phrases shall be supplied by inference. Similar types of provisions may appear in various parts of a section or articles within a part depending on the format of the section. The Contractor shall not take advantage of any variation of form, format or style in making claims for extra Work.

- E. The cross referencing of specification sections under the subparagraph heading “Related Sections include but are not necessarily limited to:” and elsewhere within each specification section is provided as an aid and convenience to the Contractor. The Contractor shall not rely on the cross referencing provided and shall be responsible to coordinate the entire work under the Contract Documents and provide a complete Project whether or not the cross referencing is provided in each section or whether or not the cross referencing is complete.”

Add the following paragraph after paragraph SC-3.03.B.1:

- “2. In resolving conflicts resulting from conflicts, errors or discrepancies in any of the Contract Documents, the order of precedence shall be as follows:
 - a. Agreement
 - b. Specifications
 - c. Drawings

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Within the Specifications, the order of precedence is as follows:

- a. Addenda/Change Orders
- b. Contractor's Bid (Bid Form)
- c. Supplemental General Conditions
- d. Special Provisions
- e. Notice Inviting Bids
- f. Instructions to Bidders
- g. General Conditions
- h. Technical Specifications
- i. Referenced Standard Specifications

With reference to the drawings, the order of precedence is as follows:

- a. Figures govern over scaled dimensions
- b. Detail drawings govern over general drawings
- c. Addenda/change order drawings govern over contract drawings
- d. Contract drawings govern over standard drawings
- e. Contract drawings govern over shop drawings

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

SC-4.01 AVAILABILITY OF LANDS

Add to Paragraph 4.01.C of the General Conditions the following:

“If it is necessary or desirable that the Contractor use land outside of the Owner’s easement or right-of-way, the Contractor shall obtain consent from the property owner and tenant of the land. The Contractor shall not enter for materials delivery or occupy for any other purpose with men, tools, equipment, construction materials, or with materials excavated from the site, any private property outside the designated construction easement boundaries or right-of-way without written permission from the property owner and tenant.”

SC-4.02 SUBSURFACE AND PHYSICAL CONDITIONS

Delete the first sentence of Paragraph 4.02.A and replace with the following:

“A. Reports and Drawings: The Supplemental General Conditions, Appendix B, identify:

Delete Paragraph 4.02.A.1 and replace with the following:

- “1. The reports, explorations, tests, drawings, etc., if any, of subsurface or physical conditions at or contiguous on the site the Engineer has used in preparing the Contract Documents.

Add the following new paragraphs immediately after Paragraph 4.02.B.3 of the General Conditions:

- “4. Test hole information represents subsurface characteristics to the extent indicated, and only for the point location of the test hole. The Contractor shall make his own interpretation of the character and condition of the materials which will be encountered between test hole locations. It shall be understood

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that the information provided is not guaranteed to be more than a general indication of the physical conditions likely to be found.

5. Any aerial photos used to produce the drawings may be dated, and therefore do not represent the actual conditions of the site. It is the Contractor's responsibility to verify existing conditions as required in the Bidders' Examination of Site section of the Instructions to Bidders."

SC-4.03 DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS

Add the following to the end of Paragraphs 4.03.A.

"The Contractor to notify the Owner and the Engineer in writing about differing subsurface or physical conditions within 15 days of discovery and before disturbing the subsurface as stated above.

No claim for an adjustment in the contract price or contract times (or Milestones) will be valid for differing subsurface or physical conditions if procedures of this paragraph 4.03 are not followed."

SC-4.04 – UNDERGROUND FACILITIES

Add the following new paragraph immediately after Paragraph 4.04.A.2.

- "3. At least 2 but not more than 10 business days before beginning any excavation, the Contractor shall according to MCA 69-4-501, notify all owners of underground facilities and coordinate the Work with the owners of such underground facilities. The information shown or indicated in the Contract Documents with respect to existing underground facilities is based on information and data obtained from the owners of the facilities without field exploration, and as such, the Owner and the Engineer are not responsible for the accuracy or completeness of such information or data."

SC-4.05 REFERENCE POINTS

Add the following to paragraph 4.05:

"The Owner provided survey and reference points are detailed within the Special Provisions, Section 01050, Field Engineering. The Contractor shall provide all other staking required to complete the project as well as comply with any additional requirements (if any) detailed within Section 01050.

SC-4.06 HAZARDOUS ENVIRONMENTAL CONDITION AT SITE

Change the first sentence of paragraph A. to read as follows:

- "A. Reports and Drawings: The Special Provisions identify those reports..."

ARTICLE 5 – BONDS AND INSURANCE

SC-5.02 LICENSED SURETIES AND INSURERS

Add the following to the end of Paragraph 5.02.A

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“Without limiting any of the other obligations or liabilities of the Contractor, Contractor shall secure and maintain such insurance from an insurance company (or companies) authorized to write insurance in the State of Montana, with minimum “A.M. Best Rating” of A-VI, as will protect the Contractor, the vicarious acts of subcontractors, the Owner, the Engineer, the Engineer’s Consultants, and the respective directors, officers, partners, agents, employees and other consultants and subcontractors of each and any of all such additional insured’s from claims for bodily injury (including sickness, disease and mental anguish), death and property damage which may arise from operations and completed operations under this Agreement. Contractor shall not commence work under this Agreement until such insurance has been obtained and certificates of insurance, with binders, or certified copies of the insurance policy shall have been filed with the Owner and the Engineer.

All insurance coverages shall remain in effect throughout the life of the Agreement, except that the Contractor shall maintain the Commercial General Liability Policy including product and completed operations coverage for a period of at least one year following the substantial completion date for property damage resulting from occurrences during the agreement period.”

SC-5.03 CERTIFICATES OF INSURANCE

Add the following immediately after paragraph 5.03.D of the General Conditions:

“Coverage in the minimum amounts set forth herein, or as provided by the Contractor if greater, shall not be construed to relieve the Contractor from liability in excess of such coverage limits.”

SC-5.04 CONTRACTOR’S INSURANCE

Add the following paragraphs to 5.04.A:

“Compliance: Failure of the Contractor to fully comply with these requirements will be considered a material breach of Contract and shall be cause for immediate termination of the Contract at the option of the Owner.

The Owner will not pay progress estimate payment due under Article 14 of the Standard General Conditions until the Contractor has fully complied with this section. This remedy is not exclusive and the Owner may take such other action as is available to it under other provisions of the Contract otherwise in law.”

Amend paragraph 5.04.B.4 of the General Conditions by striking out the words “30 days” and replacing them with the words “45 days” and as so amended paragraph 5.04.B.5 remains in effect. The cancellation notice shall contain substantially the following statement:

“Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail written notice to the certificate holder 45 days prior to cancellation.”

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

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

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1. Workers' Compensation and related coverage under Paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions.
 - a. State Statutory
 - b. Applicable Federal (e.g. Longshoremans) Statutory
 - c. Employer's Liability \$1,000,000.00
 - Bodily Injury, each accident \$1,000,000.00
 - Bodily Injury by disease, each employee \$1,000,000.00
 - Bodily Injury/disease aggregate \$1,000,000.00
2. The Contractor's Liability Insurance under Paragraphs 5.04.A.3 through 5.04.A.6 of the General conditions, and as specified below, shall include a Commercial General Liability insurance policy written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - a. Products and completed operations coverage:
 1. Such insurance shall be maintained for two years after final payment.
 2. Contractor shall furnish Owner and each other additional insured evidence of continuation of such insurance at final payment and two years thereafter.
 - b. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligation in Paragraph 6.20.
 - c. Broad form property damage coverage
 - d. Severability of interest
 - e. Personal injury coverage
 - f. Premises - Operations
 - g. Operations of Independent Contractor
 - h. Per Project Aggregate
 - i. NO additional exclusions that modify the standard ISO Commercial General Liability Policy form 1996 (or later) commercial General Liability Form in regard to explosion, collapse, blasting, underground property damage, subsidence, or work performed by subcontractors will be acceptable.

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- j. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
- k. For design professional additional insureds, ISO endorsement GC 20 32 07 04, "Additional Insured-Engineer's, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- l. Contractor's Commercial General Liability requirements

1. General Aggregate	<u>\$3,000,000.00</u>
2. Products-Completed Operations Aggregate	<u>\$3,000,000.00</u>
3. Personal and Advertising Injury	\$2,000,000.00
4. Each Occurrence (Bodily Injury and Property Damage)	<u>\$2,000,000.00</u>

- 3. Contractor shall purchase and maintain automobile liability insurance under Paragraph 5.04.A.6 of the General Conditions. Automobile liability insurance shall protect against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on occurrence basis.

- a. Bodily Injury:

Each Person	<u>\$2,000,000.00</u>
Each Accident	<u>\$2,000,000.00</u>

- Property Damage:

Each Accident	<u>\$2,000,000.00</u>
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- (or) b. Combined Single Limit \$2,000,000.00

Coverage to include:

- (1) All Owned Autos
- (2) All Hired Autos
- (3) All Non-Owned Autos

- 4. The Contractor's Liability Insurance under 5.04.A.3 through 5.04.A.6 may be satisfied by primary insurance or a combination of primary and excess or umbrella insurance. Primary occurrence limit cannot be less than \$1,000,000.00. The deductible, if any, may not exceed \$5,000.00 per occurrence on property damage.

5. Additional Insureds:

The CONTRACTOR'S insurance coverage(s) shall name the OWNER, ENGINEER and Engineer's Consultants, the state, it's officers, officials, employees and volunteers as an additional insured under Commercial General Liability, Automobile Liability and Excess or Umbrella policies. A list of the additional insured's for this project is contained below:

SC-5.06 PROPERTY INSURANCE

Delete Article 5.06 of the General Conditions in its entirety and insert the following in its place:

- "A. The Contractor shall purchase and maintain property insurance upon the work at the site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in these Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of the Owner, the Contractor, Subcontractors, Sub-Subcontractors, Engineer, Engineer's Consultants, and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
 2. be written on a Builder's Risk "all risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, false work and materials and equipment in transit and shall insure against at least the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and other perils as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to the fees and charges of engineers and architects);
 4. cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by the Engineer; and
 5. be endorsed to allow occupancy and partial utilization of the Work by the Owner.
 6. include testing and start-up; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by the Owner, Contractor, and Engineer with forty-

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five (45) days written notice to each other additional insured to whom a certificate of insurance has been issued.

8. Contractor shall be responsible for any deductible or self-insured retention.
9. The policies of insurance required to be purchased and maintained by the Contractor in accordance with this paragraph SC-5.06.A shall comply with the requirements of Paragraph 5.06.C of the General Conditions. The qualifications of the insurance company shall comply with the requirements of SC-5.02.A.”

Amend paragraph 5.06.B of the General Conditions by striking out the word “shall” and replacing it with the word “may” and as so amended paragraph 5.06.B remains in effect.

Amend paragraph 5.06.C of the General Conditions by striking out the words “30 days” and replacing them with the words “45 days” and as so amended paragraph 5.06.C remains in effect.

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

SC-6.02 LABOR; WORKING HOURS

Add the following to Paragraph 6.02.B:

“Regular working hours are defined as weekdays 7:00 A.M. to 7:00 P.M. (unless otherwise specified within the Special Provisions), holidays excluded. Emergency work may be performed without prior permission.”

SC-6.04 PROGRESS SCHEDULE

Delete Paragraph 6.04.A.1 of the General Conditions in its entirety and replace with the following:

- “1. The Contractor shall submit to the Engineer with each application for payment an updated progress schedule reflecting the amount of work completed and adjustments to future work. Such adjustments will be acceptable to the Engineer as providing an orderly progression of the Work to completion within any specified milestones and the Contract Time. No progress payment will be made to the Contractor until the updated schedules are submitted to and acceptable to the Engineer and the Owner. Review and acceptance of progress schedules by the Engineer will neither impose on the Engineer’s responsibility for the sequencing, scheduling or progress of the Work, nor interfere with or relieve the Contractor from the Contractor’s full responsibility therefore.”

SC-6.12 RECORD DOCUMENTS

Insert the following at the end of paragraph 6.12.A:

“The Contractor shall assist the Engineer in preparation of the project record drawings. The Contractor shall provide one (1) person to assist in recording this data if requested by the Engineer.”

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Add the following paragraph to the end of paragraph 6.12.A.:

- “B. The Engineer must provide the Owner at the completion of the project, an accurate record of location of all newly constructed items. Throughout the progress of the work, the Contractor shall maintain an accurate record of changes in the Contract Documents. The Contractor shall maintain in a safe place at the construction site(s), one record copy of all drawings, specifications, addenda, written amendments, change orders, work directive changes, field orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents, together with all approved samples and a counterpart of all approved shop drawings, will be available to the Engineer for reference. Upon completion of the work, these record documents, samples, and shop drawings will be delivered to the Engineer and the Owner.”

SC-6.13 SAFETY AND PROTECTION

Change Supplementary Conditions in paragraph 6.13.C to Special Provisions.

Add the following new paragraphs to the end of paragraph 6.13.F of the General Conditions:

- “G. It is expressly understood by the parties to this Agreement that the Contractor is solely responsible for initiating, maintaining, and supervising safety precautions and programs in connection with the Work. The right of the Owner and the Engineer to observe or otherwise review the Work and operations shall not relieve the Contractor from any of his covenants and obligations hereunder. The Contractor shall incorporate all safety requirements into his construction progress and work schedules including preconstruction and scheduled monthly safety meetings, posted safety rules, tailgate meetings, and site inspections by safety and other inspectors employed by the Contractor.
- H. The Contractor shall be responsible for and shall take necessary precautions and provide all material and equipment to protect, shore, brace, support and maintain all underground pipes, conduits, drains, sewers, water mains, gas mains, cables, etc., and other underground construction uncovered in the proximity, or otherwise affected by the construction work performed by him. All pavement, surfacing, driveways, curbs, walks, buildings, grass areas, trees, utility poles or guy wires damaged by the Contractor’s operations in the performance of this work shall be repaired and/or replaced to the satisfaction of the Owner, Engineer, and effected property owner at the Contractor’s expense. The Contractor shall also be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges, or other public or private property or facility, regardless of location or character, which may be caused by moving, hauling, or otherwise transporting equipment, materials, or men to and from the work or any part of site thereof, whether by him or his subcontractors. The Contractor shall make satisfactory and acceptable arrangements with owner of, or the agency or authority having jurisdiction over, the damaged property or facility concerning its repair or replacement, or payment of costs incurred in connection with said damage.
- I. The Contractor shall conduct his work so as to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways, and walks, whether public or private, the Contractor shall obtain approval from the governing party and shall, at his

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own expense, provide and maintain suitable and safe bridges, detours, and other temporary expedients for the accommodation of public and private drives before interfering with them. The provisions for temporary expedients will not be required when the Contractor has obtained permission from the owner and tenant of the private property, or from the authority having jurisdiction over public property involved, to obstruct traffic at the designated point.

- J. Safety provisions must be entirely adequate and meet with City or State and Federal regulations to protect the public on these streets and roads.”

SC-6.17. SHOP DRAWINGS AND SAMPLES

Amend Section 6.17 of the General Conditions by striking out the words “review and approval” in all paragraphs with “review for compliance.”

Add the following new paragraph to the end of section 6.17 General Conditions:

- “F. Comply with all additional submittal requirements and procedures, if any, detailed in the Special Provisions.

SC-6.20 INDEMNIFICATION

Add a new paragraph immediately after paragraph 6.20.A of the General Conditions which is to read as follows:

“While the Owner and the Engineer may have the right under this Contract to observe or otherwise review the work, progress and operations of the Contractor, it is expressly understood and agreed that such observation shall not relieve the Contractor from any of its covenants and obligations hereunder.”

ARTICLE 9 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-9.03 PROJECT REPRESENTATIVE

Add the following to the end of paragraph 9.03.A:

“Refer to Appendix A for identification of the responsibilities and authority and limitations of the Engineer’s Resident Project Representative.”

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

SC-11.01 COST OF THE WORK

11.01.A.1 Before last sentence, add:

“Superintendents off-site are included in overhead and profit of 15% per paragraph 12.01.C.2.A and will not be paid for separately under this paragraph.”

Delete paragraph 11.01.A.5.c of the General Conditions in its entirety and insert the following in its place:

- “c. The Contractor will be paid for the use of equipment at the rental rate listed for such equipment specified in the current edition of the “Rental Rate Blue Book”

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as published by Machinery Information Division of K-III Directory Corporation, 1735 Technology Drive, Suite 410, San Jose, California 95110, telephone (800) 669-3282. Such rental rate will be used to compute payments for equipment whether the equipment is under the Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate resulting in the least total cost to the Owner for the total period of use. If it is deemed necessary by the Contractor to use equipment not listed in the foregoing publication, an equitable rental rate for the equipment will be established by the Engineer. The Contractor may furnish cost data which might assist the Engineer in the establishment of the rental rate.

- (1) The rental rates paid, as above provided, shall include the cost of fuel, oil, lubrication supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Operators of equipment will be separately paid for as provided in Article 11.4.1, herein.
- (2) All equipment shall, in the opinion of the Engineer, be in good working condition and suitable for the purpose for which the equipment is to be used.
- (3) Before construction equipment is used on the work, the Contractor shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the Engineer, in duplicate, a description of the equipment and its identifying number.
- (4) Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.
- (5) Individual pieces of equipment or tools having a replacement value of \$100 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore.
- (6) Rental time will not be allowed while equipment is inoperative due to breakdowns.
- (7) Hourly rates for equipment used on an hourly basis, which is maintained on-site for basic project use shall be determined by dividing the monthly Blue Book rate by 176 hours. This has been determined to be the rate resulting in the least total cost to the Owner. If equipment is furnished solely for use on extra work, and is used on an hourly basis, the hourly rate shall be determined by using the Blue Book hourly rate, on a daily basis the daily rate, on a weekly basis the weekly rate, and on a monthly basis the monthly rate.
- (8) Standby time. Equipment that is in operational condition and is standing by with the Engineer's approval while extra work is being performed will be paid for at standby rates as explained in the Introduction of the Blue Book. The standby rate percentage will be applied to the equipment base rate after adjustment for year and region. Standby rates do not

include operating costs. Standby rates will be applied immediately when the equipment is no longer in productive operation on the extra work. There is no grace period where full equipment rates are allowed on non-productive equipment or until the standby rates become effective. During periods of suspension of work, pursuant to Article 15.01 herein, or delay of normal work due to a changed condition, idle time of construction equipment will be paid for at standby rates.

EQUIPMENT ON THE WORK. The rental time to be paid for the equipment on the work shall be the time the equipment is in productive operation on the extra work being performed and, in addition, shall include the time required to move the equipment to the location of the extra work and return it to the original location or to another location requiring no more time than that required to return it to its original location, except that moving time will not be paid if the equipment is used on other than the extra work, even though located at the site of the extra work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power, except that no payment will be made for loading and transporting costs when the equipment is used at the site of the extra work on other than the extra work. The following shall be used in computing the rental time of equipment on the work.

- (a) When hourly rates are listed, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.
- (b) When daily rates are listed, any part of a day less than 4 hours of operation shall be considered to be 1/2-day of operation. When owner-operated equipment is used to perform extra work to be paid for on a cost-plus basis, the Contractor will be paid for the equipment and operator, as follows:
 - Payment for the equipment will be made in accordance with the provisions in this Article.
 - Payment for the cost of labor and subsistence or travel allowance will be made at the rates paid by the Contractor to other workers operating similar equipment already on the project, or in the absence of such labor established by collective bargaining agreements for the type of workmen and location of the work, whether or not the operator is actually covered by such an agreement. A labor surcharge will be added to the cost of labor described herein in accordance with the provisions of Article 11.01.A.1, herein, which surcharge shall constitute full compensation for payments imposed by State and Federal laws and all other payments made to or on behalf of workers other than actual wages.
 - To the direct cost of equipment rental and labor, computed as provided herein, will be added the allowances for equipment rental and labor as provided in Article 12.01.C, herein.”

SC-11.03 UNIT PRICE WORK

Delete paragraph 11.03.D.1 and D.2 of the General Conditions in their entirety and insert the following in its place:

- “D.1 The total cost of a particular individual item of Unit Price Work amounts to 10% or more of the Contract Price which is the total sum of all schedules (if any), and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25% from the estimated quantity of such item indicated in the Agreement; and”

Add the following new paragraph immediately after paragraph 11.03.D of the General Conditions:

- “E. Unless specifically noted otherwise, work required in the plans and specifications which has no measurement and payment item and is not a separate bid item on the bid proposal sheet, is considered incidental to the work and no separate payment will be made. The cost of these portions of the work should be included in other bid items.”

SC-12.03 DELAYS

Add the following new paragraph to the end of Section 12.03.E:

- “F. Time extensions will not be granted for rain, snow, wind, flood, or other natural phenomena of normal intensity for the locality where Work is performed. For purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for a minimum continuous period of at least one-fourth of the Contract Time involved with the average of the preceding 5-year climatic range during the same time interval based on U.S. Weather Bureau statistics for the locality where the Work is performed.”

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

SC-13.01 NOTICE OF DEFECTS

Add the following to paragraph 13.01:

- “The express warranty and guarantee shall not be construed to deny the Owner or any other affected person the right to make claim on any applicable warranty implied by law.”

SC-13.03 TESTS AND INSPECTIONS

Add the following to paragraph 13.03.B:

Amend paragraph B to read as follows:

- “B. Contractor shall employ and pay for the services of an independent testing laboratory to perform all quality assurance, quality control, and compliance testing of work required by the contract documents.”

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02.A APPLICATIONS FOR PAYMENTS

Add the following language at the end of paragraph 14.02.A.1 of the General Conditions:

“Payments for materials in storage shall be based only upon the actual cost of the materials and equipment to the Contractor and shall not include any overhead or profit. Bill of Sale, invoice or other document warranting clear title for materials in storage will be waived for the material in storage included in the first progress payment application. However, proof of payment and clear title must be submitted with Application No. 2 for all material included in Application No. 1. Without such documentation amounts paid for materials in storage will be deducted from subsequent payments. Beginning with the second application, all requests for payment for materials in storage shall be accompanied by Bill of Sale, invoice or other document warranting clear title as required above.”

Add a new paragraph after paragraph to 14.02.A.3 to read:

- “4. Each application for progress payment shall be accompanied by the Contractor’s updated progress schedule, shop drawings schedules, procurement schedules, and other data specified herein or reasonably required by the Owner or the Engineer. The Owner reserves the right to require submission of monthly certified payrolls by the Contractor. After the first progress payment which may request payment for materials in storage without proof of payment, the Contractor must submit, with the following months payment request, evidence satisfactory to the Owner that such material has been paid for. Failure to provide this evidence for the first request and subsequent requests will result in withholding from subsequent progress payments the amount requested for materials in storage.
5. Each application for payment shall be accompanied by an executed lien release form from the General Contractor. Upon request and prior to issuing completion of the project, lien releases must be received from any Subcontractor and Supplier performing work on the project. Lien release shall be in a format acceptable to the Owner.”

SC-14.02.C PAYMENT BECOMES DUE

Delete Paragraph 14.02.C of the General Conditions in its entirety and insert the following in its place:

- “1. The Owner will, upon presentation to him of the Contractor’s application for payment with the Engineer’s recommendations, review and act upon said payment request, within 30 days, on or about the day of each month stipulated by the Owner at the preconstruction conference. Payment will become due when the Owner approves the application for payment, and when due will be paid by the Owner to the Contractor.”

SC-14.02.D.1.C

Amend the sentence of Paragraph 14.02.D.1.c to read:

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“...entitling the Owner to a set-off against the amount recommended, including liquidated damages, or...”

SC-14.03 CONTRACTORS WARRANTY OF TITLE

Add the following at the end of Paragraph 14.03.A of the General Conditions:

“Neither recommendation of any progress payment by the Engineer nor payment by the Owner to the Contractor, nor any use or occupancy of the Work or any part thereof will release the Contractor from complying with the Contract Documents. Specifically, the Contractor shall maintain in accordance with Article 5, property insurance on all Work, materials, and equipment whether incorporated in the project or not and whether included in an application for payment or not, for the full insurable value thereof. Passing title to the Owner for materials and equipment included in an application for payment does not relieve the Contractor of the Contractor’s obligation to provide insurance (including property insurance), as required in Article 5 of the General Conditions and these Supplementary Conditions. All insurance shall remain in effect as provided in Article 5.”

SC-14.05 PARTIAL UTILIZATION

Add the following to Paragraph 14.05.A:

“The Owner has the right to take possession of or use any completed or substantially completed portions of the work at any time, but such taking possession or use will not be deemed an acceptance of any work not completed in accordance with the Contract Documents. The Owner’s use of any facilities so identified in the Contract Documents will not be grounds for extension of the contract time or change in the contract price. The Owner’s use of any facilities not specifically identified in the Contract Documents will be in accordance with conditions agreed to prior to such use, and any extra costs or delays in completion incurred and properly claimed by the Contractor will be equitably adjusted with a Change Order. Facilities substantially completed in accordance with the Contract Documents which are occupied or used by Owner prior to substantial completion of the entire work will be done in accordance with General Conditions 14.04. Guarantee periods for accepted or substantially completed work including mechanical and electrical equipment will commence upon the start of continuous use by the Owner. All tests and instruction of the Owner’s personnel must be satisfactorily completed, and Owner shall assume responsibility for and operation of all facilities occupied or used except as may arise through portions of work not yet completed by the Contractor. If the work has been substantially completed and the Engineer certifies that full completion thereof is materially delayed through no fault of the Contractor, the Owner shall, without terminating the Agreement, make payment of the balance due for the portion of the work fully completed and accepted.”

SC-14.06 FINAL INSPECTION

Add the following to Paragraph 14.06.A:

“After the Contractor has remedied all deficiencies to the satisfaction of the Engineer and delivered all construction records, maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents (all as required by the Contract Documents), the Owner and the Contractor shall be promptly notified in writing by the Engineer that the work is acceptable.”

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SC-14.09 WAIVER OF CLAIMS

Add the words “and/or the Engineer” to the first sentence of Paragraph SC-14.09.A.2. after the words “against the Owner.”

ARTICLE 17 - MISCELLANEOUS

SC-17.01 GIVING NOTICE

Add the following to Paragraph 17.01.A:

“The mailing address for giving notices to the Contractor given in the Agreement is hereby designated as the place to which all notices, letters, and other communication to the Contractor will be mailed or delivered. The mailing address for giving notices to Owner given in the Agreement is hereby designated as the place to which all notices, letters, and other communication to the Owner shall be mailed or delivered. Either party may change his address at any time by an instrument in writing delivered to the Engineer and to other party.”

EXHIBIT 9-B
CDBG SUPPLEMENTAL GENERAL CONDITIONS
AND FEDERAL LABOR STANDARDS PROVISIONS

Also see (*Funding Agency Special Provisions for Montana Public Facilities Projects, SECTION 00900*), which has Supplemental General Conditions for CDBG (and also for other funding agencies in the Montana Water, Wastewater and Solid Waste Action Coordinating Team). See http://www.dnrc.mt.gov/cardd/ResDevBureau/wasact/docs/Uniform_Spec_Supplement.pdf.

The following Montana CDBG Supplemental General Conditions are hereby made a part of this contract and shall supplement and/or supersede any articles of these specifications in conflict therewith. Any subsequent and/or addenda issued after these specifications have been prepared shall supplement and/or supersede any articles of these specifications.

1. Montana Contractor Registration Requirements
2. 1% Gross Receipts Withholding Requirement (Contractor's License Fee)
3. Pre-construction Conference
4. Reports and Information
5. Access to Records
6. Contract Pricing
7. Federal Labor Standards Provisions (HUD-4010 Form). See CDBG Exhibit 6-A.
8. Schedule of Minimum Hourly Wage Rates (Davis-Bacon Wage Determination)
9. Equal Opportunity Provisions
 - a. Equal Employment Opportunity (Executive Order 11246)
 - b. Title VII of the Civil Rights Act of 1964
 - c. Section 109 of the Housing and Community Development Act of 1974
 - d. Section 3 of the Housing and Urban Development Act of 1968
 - e. Minority/Women Business Enterprise
 - f. Nondiscrimination Provision in all Public Contracts
10. Uniform Federal Accessibility Standards (UFAS)
11. Compliance with Federal Clean Air and Water Acts
12. Contractor Eligibility
13. Workers' Compensation Insurance

1. **MONTANA CONTRACTOR REGISTRATION REQUIREMENT**

Title 39, Chapter 9, Part 2, MCA provides that no Contractor may submit a bid unless properly registered with the Montana Department of Labor and Industry (DOLI). No bids will be considered that do not carry the bidder's Montana Contractor's Registration Number on the envelope containing the bid and on the bid.

MCA 39-9-201 through 39-9-211 sets out contractor registration requirements with the State of Montana. Contractors and any of the contractor's subcontractors doing work on a project are required to register with the DOLI. Forms for registration are available from the Department of Labor and Industry, P. O. Box 8011, 1805 Prospect, Helena, Montana 59604-8011. Information on registration can be obtained by calling 1-406-444-7734.

All laborers and mechanics employed by the contractor or subcontractors in performance of the construction work shall be paid wages at rates as may be required by the federal Davis Bacon prevailing wage and reporting requirements. The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

2. **GROSS RECEIPTS WITHHOLDING REQUIREMENTS (CONTRACTOR'S LICENSE FEE)**

Pursuant to Section 15-50-206(2)(3), MCA, the Owner is required to withhold one percent of all payments due the Contractor and is required to transmit such moneys to the Montana Department of Revenue as part of the public contractor's license fee. In like fashion, the Contractor is required to withhold one percent from payments to subcontractors.

3. **PRE-CONSTRUCTION CONFERENCE**

After the contract(s) have been awarded, but before the start of construction, a conference will be held for the purpose of discussion requirements on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated.

4. **REPORTS AND INFORMATION**

The contractor, at such times and in such forms as the owner may require, shall furnish the owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

5. **ACCESS TO RECORDS**

The owner, the Inspector General of the United States, the U.S. Department of Housing and Urban Development, the U.S. Department of Labor, the General Accounting Office, and the Montana Department of Commerce shall be permitted by the contractor to have full access to, and right to examine any pertinent books, documents, papers and records of the contractor involving transactions related to this contract, during the period of the project and for three (3) years from

the date of final payment or until all findings have been resolved to the satisfaction of the State of Montana.

6. **CONTRACT PRICING**

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

7. **FEDERAL LABOR STANDARDS PROVISIONS, HUD-4010**

The HUD-4010 form (Federal Labor Standards Provisions) which is Exhibit 6-A of the CDBG Grant Administration Manual) must be included with attached to these CDBG Supplemental Conditions. The HUD- 4010 form summarizes the federal provisions which are required to be contained in the contract including minimum wage, withholding for wages, payroll and basic records, apprentices and trainees, sub-contracts, debarment, labor standards disputes, overtime, liability for unpaid wages, liquidated damages, health and safety, and other issues.

8. **SCHEDULE OF MINIMUM HOURLY WAGE RATES**

The current federal Davis-Bacon Wage Determination provided by the Montana Department of Commerce's CDBG Program as applicable to the project must be included attached to these CDBG Supplemental Conditions. (See Chapters 6 and 9 of the CDBG Grant Administration Manual.)

9. **EQUAL OPPORTUNITY PROVISIONS**

- (a) Equal Employment Opportunity (Executive Order 11246). During the performance of this contract, the Contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Department's contracting officer advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - (6) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
 - (7) The contractor will include the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that each provision will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- (b) Title VII of the Civil Rights Act of 1964. Provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - (c) Section 109 of the Housing and Community Development Act of 1974. "No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity."
 - (d) Section 3 of the Housing and Urban Development Act of 1968. The contractor will ensure that to the greatest extent feasible opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.

- (e) Minority Business Enterprise. Under the provisions of Executive Order 11246 contractors on federally-funded projects are required to take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the contractor must document all affirmative steps taken to solicit minority businesses and forward this documentation along with the names of the minority subcontractors and suppliers to the owner upon request.
- (f) Nondiscrimination Provision in all Public Contracts Pursuant to Section 49-3-207, MCA. The Contractor certifies that all hiring will be on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

10. **UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS)**

All design specifications for the construction of any building shall provide access to the physically handicapped in accordance with the Uniform Federal Accessibility Standards and HUD regulations 24 CFR Part 8, "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of HUD".

11. **CERTIFICATION OF COMPLIANCE WITH FEDERAL CLEAN AIR AND WATER ACTS**

(Applicable to federally assisted construction contracts and related sub-contracts exceeding \$100,000.)

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended.

12. **CONTRACTOR ELIGIBILITY**

The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" (24 CFR 24.505).

13. **WORKERS' COMPENSATION INSURANCE**

The Contractor certifies that workers' compensation insurance will be maintained as required by the Montana Workers' Compensation Act (39-71-101, MCA). The Contractor further certifies that the Contractor will comply at all times with occupational disease and health and safety laws and regulations to the full extent applicable.

AINSWORTH COMMUNITY PARK PROJECT

DIVISION C

FUNDING AGENCY SPECIAL PROVISIONS
DAVIS BACON WAGE RATES
MEASUREMENT AND PAYMENT

AINSWORTH COMMUNITY PARK PROJECT

SECTION 00900**FUNDING AGENCY SPECIAL PROVISIONS FOR MONTANA PUBLIC FACILITY PROJECTS**

This section supplements Division 0 of the Montana Public Works Standard Specifications, Sixth Edition, dated April, 2010.

Included herein are supplemental general conditions that are required by Montana public facility funding programs or agencies listed in 1.1 below but are not included in the Montana Public Works Standard Specifications, Division 0.

ARTICLE 1. SPECIAL PROVISIONS**1.1 FUNDING AGENCIES**

This project is being funded with funds from one or more of the following public facility funding programs or agencies:

Renewable Resource Grant and Loan Program (RRGL)
 Treasure State Endowment Program (TSEP)
 United States Department of Agriculture Rural Development (USDA/RD)
 Community Development Block Grant Program (CDBG)
 Drinking Water or Water Pollution Control State Revolving Fund Loan Program (SRF)

1.1.1 Applicable Funding Agency Special Provisions

In addition to Section 1.2 below, the following sections also apply as indicated:

- Section 1.3 (Additional USDA/RD Requirements)
- Section 1.4 (Additional CDBG Requirements)
- Section 1.5 (Additional SRF Requirements)
- Exhibit A (Project Sign Detail)
- Exhibit B (HUD Form 4010)
- Exhibit C (Federal Labor Standards Provisions)
- Exhibit D (Disadvantaged Business Enterprise Forms)
- Exhibit E (American Iron and Steel Forms)

1.2 SPECIAL PROVISIONS FOR ALL FUNDING AGENCIES

The following requirements pertain to all of the funding programs or agencies listed in 1.01 above. If project funding sources include any of the programs or agencies listed, the following general requirements must be met in addition to those required in the Montana Public Works Standard Specifications, Division 0:

1.2.1 Reports, Information, and Access to Records

The contractor, at such times and in such form as required by the owner (defined herein as the entity for which the project is being constructed) shall furnish reports pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

The owner and any federal, state or local governmental agency having a valid interest in this project shall be permitted by the contractor to have full access to and the right to examine pertinent documents of the contractor involving transactions related to this contract during the period of the project and for three (3) years from the date of final payment or until all findings have been resolved to the satisfaction of the funding agencies.

1.2.2 Contractor Eligibility and Certification Regarding Debarment

The contractor certifies that the contractor's firm and the firm's principals are not debarred, suspended, or otherwise ineligible to receive any Montana public works contracts or subcontracts pursuant to 18-2-432 (2), MCA.

For federally funded projects, the contractor certifies that the contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" (24 CFR 24.505).

1.2.3 Contractor Registration and Worker's Compensation Requirements

Title 39, Chapter 9, Parts 1 and 2 MCA stipulate contractor registration requirements for the State of Montana. Pursuant to 39-9-201 MCA, each construction contractor must be registered with the Montana Department of Labor and Industry. In accordance with 39-9-102 MCA, "construction contractor" means a person, firm, or corporation that, in the pursuit of an independent business, offers to undertake, undertakes, or submits a bid for construction.

No bid shall be considered that does not carry the bidder's Montana Contractor's Registration Number on the bid form.

Registration forms and additional information may be obtained by contacting the Montana Department of Labor and Industry, 1805 Prospect Ave., P.O. Box 8011, Helena, MT 59604-8011, or by calling 406-444-7734.

The contractor must provide certification that workers' compensation insurance will be maintained as required by the Montana Workers' Compensation Act (39-71-101 MCA).

1.2.4 Minimum Wage Requirements

Unless superseded by federal law, 18-2-401 MCA and 18-2-402 MCA require that each employer pay, as a minimum, the rate of wages, including fringe benefits and zone pay applicable for the work being performed, as provided in the current Montana Prevailing Wage Requirements as determined by the Montana Department of Labor and Industry.

The current wage determination(s) must be included in the contract documents.

If the SRF Loan Program is funding the project in whole or in part, federal and state laws require that each employer pay, as a minimum, prevailing wages for each classification in accordance with the Federal Labor Standards Provisions (Davis-Bacon) (**Exhibit C**) or Montana Prevailing Wage Requirements, whichever is greater.

If the CDBG Program is funding the project in whole or in part, HUD Form 4010-Federal Labor Standards Provisions (**Exhibit B**) must be included in the contract documents.

1.2.5 Compliance With State and Federal Laws and Regulations

All applicable laws, ordinances, rules and regulations of authorities having jurisdiction over construction of the project shall apply to the contract throughout.

The contractor must comply with all applicable state and federal occupational disease and health and safety laws and regulations.

1.2.6 Project Sign

All projects will have a sign erected at a prominent location near the major portion of the work in plain view of the general public prior to submittal of the first pay estimate. The sign will generally conform to the following:

"The CONTRACTOR, or such contractor as the ENGINEER may designate, when construction begins, shall erect a sign constructed of 4'X8'X $\frac{3}{4}$ " exterior plywood (A-B) and shall be supported by and bolted to two (2) 4"X4" posts with the bottom of the sign at a point at least two (2) feet above the ground line. The project sign shall be maintained in a good condition until project completion.

The sign will be edged, painted and lettered as shown on **Exhibit A**. The letters shall be approximately three (3) inches in height.

The cost of the sign is incidental to the contract price. The sign shall remain the property of the owner.

A statement indicating all agencies participating in the financing of the project shall be included on the sign. The sign shall be subject to agency approval prior to being erected.

1.2.7 Gross Receipts Withholding Requirements

Pursuant to Section 15-50-206(2)(3), MCA, the owner is required to withhold one percent (1%) of all payments due the contractor and is required to transmit such moneys to the Montana Department of Revenue as part of the public contractor's license fee. In like fashion, the contractor is required to withhold one percent (1%) from payments to subcontractors.

1.2.8 Clean Air and Clean Water Acts, Executive Order 11738 and EPA Regulations:

If this Contract exceeds \$100,000, Contractor shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)); Section 508 of the Clean Water Act (33 USC 1368); Executive Order 11738; and Environmental Protection Agency Regulations (40 CFR Part 15).

1.3 ADDITIONAL SPECIAL PROVISIONS FOR USDA/RD

1.3.1 The following documents shall be attached to and made a condition of the contract documents for any project funded, in whole or in part, by Rural Development:

If the bid amount exceeds \$10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in paragraph 18.10 of the General Conditions;

If the bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048); and

If the bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans. Refer to paragraph 18.11 of the General Conditions.

1.3.2 Free and Open Competition

All procurement transactions will be conducted in a manner that provides maximum free and open competition. Examples of what are considered to be restrictive of competition include but are not limited to: employment preferences to Montana Bidders or Montana Contractors and Montana residents.

1.3.3 Contractor's Retainage

No payments will be made that would deplete the retainage nor place in escrow any funds that are required for retainage or invest the retainage for the benefit of the contractor.

1.4 ADDITIONAL SPECIAL PROVISIONS FOR CDBG

1.4.1 Equal Employment Opportunity Provisions

a. Equal Employment Opportunity (Executive Order 11246). During the performance of this contract, the Contractor agrees as follows:

(i) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(ii) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(iii) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Department's contracting officer advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) The contractor will comply with all of the provision of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(v) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(vi) In the event of the contractor's noncompliance with the non- discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

(vii) The contractor will include the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that each provision will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

b. Title VII of the Civil Rights Act of 1964. Provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

c. Section 109 of the Housing and Community Development Act of 1974. "No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity."

d. Section 3 of the Housing and Community Development Act of 1968. The contractor will ensure that to the greatest extent feasible opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.

e. Minority Business Enterprise. Under the provisions of Executive Order 11246 contractors on federally-funded projects are required to take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the contractor must document all affirmative steps taken to solicit minority businesses and forward this documentation along with the names of the minority subcontractors and suppliers to the owner upon request.

f. Nondiscrimination Provision in all Public Contracts Pursuant to Section 49-3-207, MCA, the Contractor certifies that all hiring will be on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

1.4.2 Uniform Federal Accessibility Standards (UFAS)

All design specifications for the construction of any building shall provide access to the physically handicapped in accordance with the Uniform Federal Accessibility Standards and HUD regulations 24 CFR Part 8, "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of HUD".

1.4.3 Certification of Compliance with Federal Clean Air and Water Acts (Applicable to Federally Assisted Construction Contracts and Related Sub-Contracts Exceeding \$100,000.)

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended.

1.4.4 Preconstruction Conference

After the contract(s) have been awarded, but before the start of construction, a conference will be held for the purpose of discussion requirements on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated.

1.4.5 Contract Pricing

The cost plus a percentage of cost method of contracting shall not be used.

1.5 ADDITIONAL SPECIAL PROVISIONS FOR SRF

1.5.1 Equal Employment Opportunity and Affirmative Action Requirements on Federally Assisted Construction Contracts

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade	_____
Goals for female participation in each trade	<u>6.9%</u>

These goals are applicable to all the contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number for the subcontractor; employer identification number of the subcontractor, estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed (see form on page 11).

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the _____.

This notice shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts.

EQUAL OPPORTUNITY CLAUSE

The Equal Opportunity Clause published at 41 CFR Part 60-1.4(b) is required to be included in, and is part of, all nonexempt federally assisted construction contracts and subcontracts. The Equal Opportunity Clause shall be considered to be a part of every contract and subcontract required by the regulations in this part to include such a clause, whether or not it is physically incorporated in such contracts.

In addition to the clause described above, all federal contracting officers, all applicants, and all non-construction contractors, as applicable, shall include the specifications set forth in this section in all federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the

Director pursuant to §60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of non-construction Federal contracts and subcontracts covered under the Executive Order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. "Covered Area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the employer's quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area, (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs (7)(a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the federal register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under (7)(b) above.
 - f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7)(a) through (p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7)(a) through (p) of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive order if a specific minority group of women is under-utilized).

10. The contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (7) of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program)

CONTRACTOR'S NAME, ADDRESS & TELEPHONE NUMBER

Return to:
 USDOL/ESA/OFCCP
 Denver District Office
 1999 Broadway-Suite 1177
 P.O. BOX 46550
 Denver, CO 80201-6550

CONTRACTOR' EMPLOYER ID NUMBER: _____

CONTRACT INFORMATION

PROJECT AND LOCATION:				
Dollar Amount of Contract	Estimated Start Date	Estimated Completion Date	Contract No.	Geographical Area

NOTIFICATION OF SUBCONTRACTS AWARDED (>\$10,000)

Subcontractors Name, Address, & Phone Number	Employer ID Number of Subcontractor	Estimated \$ Amount of Subcontract	Estimated Start Date	Estimated Completion Date

1.5.2 Guidance for Utilization of Small, Minority, and Women Business Enterprises (DBE) Requirements of 40 CFR 35.3145(D)

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

A. REQUIREMENTS

1. The recipient and prime contractor will exercise good faith efforts to attract and utilize small, minority, and women's business (DBEs) enterprises primarily through outreach, recruitment, and race/gender neutral activities. At a minimum, the recipient and project bidders will follow the six affirmative steps below:
 - a. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities including placing DBEs on solicitation lists and soliciting them whenever they are potential sources;
 - b. Make information on forthcoming opportunities available to DBEs and arrange time frames and establish delivery schedules, when the requirements of the work permit, which will encourage participation by DBEs;
 - c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs; including dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by DBEs;
 - d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually;
 - e. Using the services of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and
 - f. Require a. through e. to be taken if subcontracts are awarded.

B. FAIR SHARE OBJECTIVE

1. The fair share objective for this project is 2 % MBE's and 3 % WBE's.

C. DEFINITIONS

1. Minority Business Enterprise (MBE) is a business concern which is:
 - a. Certified as socially and economically disadvantaged by the Small Business Administration;
 - (1) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.
 - (2) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished capital and credit opportunities, as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Small Business Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individuals. Individuals who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans), are to be considered socially and economically disadvantaged. Economically and socially disadvantaged individuals are deemed to include women.
 - b. Certified as a minority business enterprise by a State or Federal agency; or
 - c. An independent business concern which is at least 51 percent owned and controlled by minority group member(s).

(1) A minority group member is an individual who is a citizen of the United States and one of the following:

(a) Black American:

(b) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America)

(c) Native American (American Indian, Eskimo, Aleut, native Hawaiian); or

(d) Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).

(2) In order to satisfy the third criteria of the MBE definition, the minority ownership's interest must be real, substantial and continuing. Such interest is characterized by:

(a) Risk of loss/share of profit commensurate with the proportional ownership; and

(b) Receipt of the customary incidents of ownership, such as compensation (i.e. salary and other personnel compensation).

(3) A minority owner must have and exercise control of the business decisions. Characteristics of control include, but are not limited to:

(a) Authority to sign bids and contracts;

(b) Decisions in price negotiations;

(c) Incurring liabilities for the firm;

(d) Final staffing decisions;

(e) Policy-making; and

(f) General company management decisions.

(4) Only those firms performing a useful business function according to custom and practice in the industry are qualified as MBEs. Acting merely as a passive conduit of funds to some other firm where such activity is unnecessary to accomplish the project does not constitute a "useful business function according to custom and practice in the industry." The purpose of this approach is to discourage the use of MBE "fronts" and limit the creation of an artificial supplier and broker marketplace.

2. Women's Business Enterprise (WBE) is a business which is certified as such by a State or Federal agency, or which meets the following definition:

"A women's business enterprise is an independent business concern which is at least 51 percent owned by a woman or women, who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or otherwise qualified WBE which is 51 percent owned by a married woman in a community property State will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business."

As in the case of a MBE, only United States citizens will be deemed to be WBEs. Similar to the MBE criteria, WBE should meet the criteria cited in subparagraphs C.1.c.(2), (3), and (4).

3. Fair Share or Fair Share Objective A fair share or a fair share objective is an amount of funds reasonably commensurate with the total project funding and the availability of qualified MBEs and WBEs, taking into account experience on EPA-funded projects and other comparable projects in the area. A fair share objective does not constitute an absolute requirement, but a commitment on the part of the bidder to exercise good faith *efforts* as defined in this section to use MBEs and WBEs to achieve the fair share objective.

4. Small Business (SBE). Any business entity, including its affiliates, that is independently owned and operated, and not dominant in its field of operations in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards set forth in 13 CFR Part 121.
5. Small Business in a Rural Area. A small business in a rural area (SBRA) is a business entity meeting the definition of a small business, and is located and conducts its principal operations in a geographical area (county) listed in the Small Business Administration's Listing of Non-Metropolitan Counties by State.
6. Recipient. A party receiving SRF financial assistance.
7. Project. The work financed through an SRF loan.
8. Bidder. A party seeking to obtain a contract with a recipient through a competitive, advertised, sealed bid process.
9. Offeror. A party seeking to obtain a contract with a recipient through a negotiative procurement process.
10. Prime Contractor. A party that has obtained a contract with a recipient through a competitive, advertised, sealed bid process.
11. Good Faith Efforts. Good faith efforts by a recipient, prime contractor, and/or bidder/offeror means efforts to attract and utilize SBEs, MBEs, and WBEs (DBEs) primarily through outreach, recruitment, and race/gender neutral activities. The following are examples of activities to assist recipients, prime contractors and/or bidders/offerors to comply with good faith efforts.
 - a. Include qualified SBEs, MBEs, and WBEs on solicitation lists.
 - (1) Maintain and update a listing of qualified SBEs, MBEs, and WBEs and SBRA's that can be solicited for supplies, construction and/or services.
 - (2) Provide listings to all interested parties who requested copies of the bidding or proposing documents.
 - (3) Contact appropriate sources within your geographic area and State to identify qualified MBEs and WBEs for placement on your minority and women's business listings.
 - (4) Utilize other MBE/WBE listings such as those of the State's Minority Business Office, the Small Business Administration, Minority Business Development Agency, US EPA- Office of Small and Disadvantaged Business Utilization (OSDBU) and the Department of Transportation.
 - (5) Have the State environmental agency personnel review this solicitation list.
 - b. Ensure that SBEs, MBEs, and WBEs are solicited.
 - (1) Conduct meetings, conferences, and follow-ups with SBEs, MBEs, WBEs, and SBRA's, small, minority and/or women's business associations, minority media, etc., to inform these groups of opportunities to provide supplies, services, and construction.
 - (2) MBE utilization is facilitated if the recipient or prime contractor advertises through the minority media. Such advertisements may include, but are not limited to, contracting and subcontracting opportunities, hiring and employment, or any other matter related to the project.
 - (3) Conduct pre bid, pre-solicitation, and post-award conferences to ensure that consultants, suppliers, and builders solicit SBEs, MBEs, WBEs, and SBRA's.
 - (4) Provide bidders and offerors with listings of qualified SBEs, MBEs, WBEs, and SBRA's and establish that a fair share of contracts/procurements should be awarded to these groups.
 - (5) Advertise in general circulation, trade publications, State agency publications of identified source, minority or women's business focused media, etc., concerning contracting opportunities on your projects. Maintain a list of minority or women's business-focused publications that may be utilized to solicit MBEs or WBEs.

(6) Provide interested SBEs, MBEs, WBEs, or SBRA with adequate information about plans, specifications, timing and other requirements of the proposed projects.

(7) Provide SBE, SBRA, MBE or WBE trade organizations with succinct summaries of solicitations.

(8) Notify SBEs, MBEs, WBEs, or SBRA of future procurement opportunities so that they may establish bidding solicitations and procurement plans.

c. Make information on forthcoming opportunities available to DBEs and arrange time frames and establish delivery schedules, where requirements of the work permit, which will encourage participation by SBEs, MBEs, WBEs and SBRA.

(1) Consider lead times and scheduling requirements often needed by SBE, MBE, WBE or SBRA participation.

(2) Develop realistic delivery schedules which may provide for greater SBE, MBE, WBE or SBRA participation.

(3) Whenever possible, post solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date

d. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs; including dividing total requirements when economically feasible, into small tasks or quantities to permit maximum participation of SBEs, MBEs, WBEs and SBRA.

(1) Perform an analysis to identify portions of work that can be divided and performed by qualified SBEs, MBEs, WBEs and SBRA.

(2) Scrutinize the elements of the total project to develop economically feasible units of work that are within the bonding range of SBEs, MBEs, WBEs and SBRA.

(3) Analyze bid packages for compliance with the good faith efforts to afford SBEs, MBEs, WBEs and SBRA maximum participation.

(4) Encourage contracting with a consortium of SBEs, MBEs, WBEs, and SBRA when a contract is too large for one of these firms to handle individually

e. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the US Department of Commerce, as appropriate.

(1) Use the services of outreach programs sponsored by the Minority Business Development Agency and/or the Small Business Administration to recruit bona fide firms for placement on SBEs', MBEs', WBEs', or SBRA's bidders lists to assist these firms in the development of bid packaging.

(2) Seek out Minority Business Development Centers (MBDCs) to assist recipients and prime contractors in identifying MBEs for potential work opportunities on this project.

f. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs a. through e. of this section.

D. ADDITIONAL CONTRACT PROVISIONS

1. The prime contractor must pay its subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

2. The prime contractor must notify the owner in writing prior to any termination of a DBE subcontractor for convenience.

3. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement subcontractor, even if the fair share objectives have already been achieved.

4. The prime contractor must distribute EPA Form 6100-2, DBE Program Subcontractor Participation Form (see Exhibit D) to all of its DBE subcontractors. The subcontractors can submit completed forms to the EPA DBE Coordinator (address included on the form) at any time during the project period of performance.
5. The prime contractor must have its DBE subcontractors complete EPA Form 6100-3, DBE Program Subcontractor Performance Form (see Exhibit D) and include completed forms in its bid / proposal package or submit the form within seven (7) calendar days of the bid opening.
6. The prime contractor must complete EPA Form 6100-4, DBE Program Subcontractor Utilization Form (see Exhibit D) and submit as part of its bid or proposal package or submit the form within seven (7) calendar days of the bid opening.
7. Failure to submit the requested information (Form 6100-3 and Form 6100-4) within seven (7) calendar days of the bid opening may be viewed as non-responsive.
8. Additional DBE forms can be downloaded at <http://www.epa.gov/osdbu/grant.htm>

E. REPORTING

1. Bidders/offerors shall demonstrate compliance with “good faith” efforts in order to be deemed responsible. At a minimum this will include completing EPA forms 6100-3 and 6100-4 as discussed above. Additional efforts could include maintaining phone/mail logs (see attached MBE/WBE Subcontractor Solicitation Sheet), submitting proof of DBE solicitation advertisements, completion of the on-line DBE quote request form located at <http://www.mdt.mt.gov/business/contracting/civil/quotereq.shtml>, etc.. The owner may specify other methods of demonstrating compliance.
2. Documentation of a “good faith” effort should be submitted with the bid.

MBE/WBE SUBCONTRACTOR SOLICITATION INFORMATION						
Name, Address & Phone No. of Subcontractor Contacted	Date Request for Quote Sent	Description of Work Offered	Date of Phone Follow-up & Person Contacted	Amount of Quote or Reason for Not Quoting*	Quote Accepted? If not, list reason for rejection	Indicate MBE, WBE, or other Subcontractor

* - Use additional sheets if necessary.

The undersigned hereby certifies that the above information is true and correct:

Contractor: _____

By: _____

Signature

Title

Date: _____

1.5.3 Certification Regarding Debarment, Suspension and Other Responsibility Matters**A. INSTRUCTIONS**

Under Executive Order 12549, an individual or organization debarred or excluded from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a subagreement thereunder for \$25,000 or more. The status of prospective individuals or organizations can be checked at:

<http://www.sam.gov/>

A prospective prime contractor must submit a completed certification (see form on the following page) or explanation to the project owner for the project. Each prospective subcontractor must submit a completed certification or explanation to the prime contractor for the project.

B. HOW TO OBTAIN FORMS

Additional forms may be obtained from the State or may be reproduced.

SRF Project Number

United States Environmental Protection Agency
Washington, DC 20460

**Certification Regarding Debarment, Suspension, and
Other Responsibility Matters**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.

1.5.4 Prohibition against Listed Violated Facilities

A. REQUIREMENTS

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Pub. L. 92-604) and section 308 of the Clean Water Act (33 U.S.C. 1251, as amended), respectively, which relate to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from the listing.

(3) To use his best efforts to comply with clean air and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this clause, including this paragraph (4), in any nonexempt subcontract.

B. DEFINITIONS

(1) Air Act means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) Water Act means the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

(3) Clean Air Standards means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110 (d) of the Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under section 111 (c) or section 111(d), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) Clean Water Standards means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of Water Act (33 U.S.C. 1317).

(5) Compliance means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency in accordance with the requirements of the Air Act or Water Act and regulations.

(6) Facility means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be used in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

1.5.5 Discovery of Archaeological and other Historical Items

In the event of an archaeological find during any phase of construction, the following procedure will be followed:

(1) Construction shall be halted, with as little disruption to the archaeological site as possible.

(2) The Contractor shall notify the Owner who shall contact the State Historical Preservation Officer.

(3) The State Historical Preservation Officer may decide to have an archaeologist inspect the site and make recommendations about the steps needed to protect the site, before construction is resumed.

(4) The entire event should be handled as expediently as possible in order to hold the loss in construction time to a minimum while still protecting archaeological finds.

A similar procedure should be followed with regard to more recent historical resources. Should any artifacts, housing sites, etc., be uncovered, the same procedure should be followed as for an archaeological find.

In the event archaeological/historical data are evaluated to meet National Register criteria, the Advisory Council on Historic Preservation may be notified and asked to comment.

1.5.6 Williams-Steiger Occupational Safety and Health Act of 1970

A. AUTHORITY

(1) The contractor is subject to the provisions of the Williams-Steiger Occupational Safety and Health Act of 1970.

(2) These construction documents and the joint and several phases of construction hereby contemplated are to be governed, at all times, by applicable provisions of the Federal law(s) , including but not limited to the latest amendment of the following:

a. Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 94-596;

b. Part 1910 - Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations;

c. Part 1926 - Safety and Health Regulations for Construction, Chapter XVII of Title 29, Code of Federal Regulations.

B. SAFETY AND HEALTH PROGRAM REQUIREMENTS

(1) This project, its prime contractor and its subcontractors, shall at all times be governed by Chapter XVII of Title 29, Code of Federal Regulations, Part 1926 - Safety and Health Regulations for Construction (29 CFR 22801), as amended to date.

(2) To implement the program and to provide safe and healthful working conditions for all persons, general project safety meetings will be conducted at the site at least once each month during the course of construction, by the construction superintendent or his/her designated safety officer. Notice of such meeting shall be issued not less than three (3) days prior, stating the exact time, location, and agenda to be included. Attendance by the owner, architect, general foreman, shop steward(s), and trades, or their designated representatives, witnessed in writing as such, shall be mandatory.

(3) To further implement the program, each trade shall conduct a short gang meeting, not less than once a week, to review project safety requirements mandatory for all persons during the coming week. The gang foreman shall report the agenda and specific items covered to the project superintendent, who shall incorporate these items in his/her daily log or report.

(4) The prime contractor and all subcontractors shall immediately report all accidents, injuries, or health hazards to the owner and architect, or their designated representatives, in writing. This shall not obviate any mandatory reporting under the provisions of the Occupational Safety and Health Act of 1970.

(5) This program shall become a part of the contract documents and the contract between the owner and prime contractor, prime contractor and all subcontractors, as though fully written therein

1.5.7 Wage Determination

The Contractor and all subcontractors shall pay for all labor employed at no less than the minimum standard prevailing rate of wages for each classification, which shall be the higher of either the Montana Prevailing Wage Rates or the Federal Davis-Bacon Prevailing Wage Rates.

Please refer to EXHIBIT C for Federal Labor Standards Provisions for Federally Assisted Construction Contracts.

If you have a question about complying with the prevailing wage regulations (occupations, payroll forms, payment of fringe benefits, travel or per diem, etc.), you should contact the Labor Standards Bureau Wage and Hour Unit of the Montana Department of Labor and Industry or visit their website: <http://dli.mt.gov/>

1.5.8 Access

1. The recipient must insure that representatives of the Environmental Protection Agency and the State will have access to project records and the project work whenever it is in preparation or progress and must provide proper facilities for such access and inspection. The recipient must allow the Regional Administrator, the Comptroller General of the United States, the State agency, or any authorized representative, to have access to any books, documents, plans, reports, papers, including records of contractors which are pertinent to the project for the purpose of making audit, examination, excerpts, copies, and transcriptions thereof. The recipient must insure that a party to a subagreement will afford access to such project work, sites, documents, and records.

1.5.9 Construction Site Erosion and Sediment Control Measures

Every effort shall be made by the contractors and subcontractors to prevent and correct problems associated with erosion and runoff processes which could occur during and after project construction. The efforts should be consistent with applicable local ordinances, the EPA Nonpoint Source Pollution Control Guidance and Department of Environmental Quality Stormwater Management Plan.

Wherever appropriate, the contractor's efforts shall reflect the following engineering principles:

1. When appropriate, land grading and excavating should be kept at a minimum to reduce the possibility of creating runoff and erosion problems which require extensive control measures.
2. Whenever possible, topsoil should be removed and stockpiled before grading begins.
3. Land exposure should be minimized in terms of area and time.
4. Exposed areas subject to erosion should be covered as quickly as possible by means of mulching or vegetation.
5. Natural vegetation should be retained whenever feasible.
6. Appropriate structural or agronomic practices to control runoff and sedimentation should be provided during and after construction.
7. Early completion of stabilized drainage systems (temporary and permanent systems) will substantially reduce erosion potential.
8. Roadways and parking lots should be paved or otherwise stabilized as soon as feasible.
9. Clearing and grading should not be started until a firm construction schedule is known and can be effectively coordinated with the grading and clearing activity.

1.5.10 American Iron and Steel (AIS) Requirements

On January 17, 2014, H.R. 3547, "Consolidated Appropriations Act, 2014," (Public Law 113-76, Section 436) was enacted. This law provides appropriations for both the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund for federal fiscal year 2014, while adding an American iron and steel requirement to these already existing programs.

The Act includes a provision for "Use of American Iron and Steel," in Section 436(a)(1). None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, rebar, and construction materials. The iron and steel products used in the project must comply with the American Iron and Steel requirements of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76) and as further interpreted by applicable EPA guidance (see http://water.epa.gov/grants_funding/aisrequirement.cfm).

The General Contractor(s) shall provide the Owner with a certifying statement upon project completion that all of the qualifying iron and steel components used in the project are produced in the United States. General Contractor(s) shall ensure that all subcontractors and manufacturers/suppliers on the project have met the AIS requirements. The Manufacturer/Supplier Certification forms should be provided to the Owner prior to product purchase or be supplied with the delivery of the products. Certification forms for the General Contractor(s) and manufacturers/suppliers are found in Exhibit E of Section 00900.

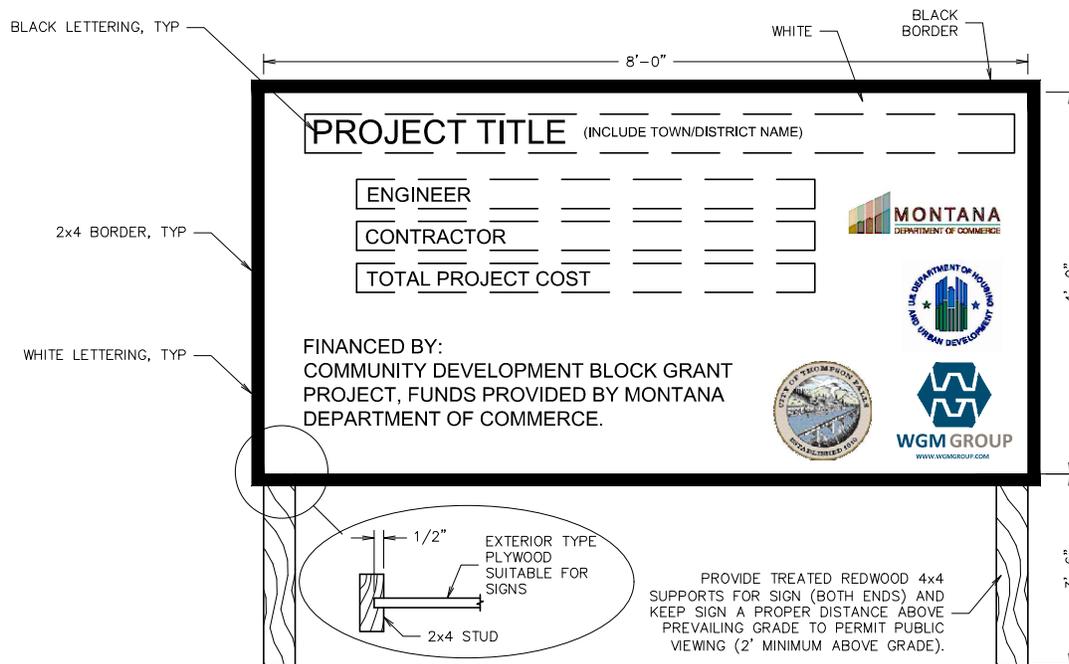
A waiver from the American Iron and Steel requirements may be issued by the Administrator of the Environmental Protection Agency if it is found that: 1) applying the American Iron and Steel provisions would be inconsistent with the public interest; 2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or 3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. Waiver requests must be submitted to the state for review and submittal to the EPA.

1.6 Exhibits

EXHIBIT A

Project Sign Detail

SIGN EXHIBIT



MINIMUM SIGN DIMENSIONS (4' x 8' x 3/4") EXTERIOR
PLYWOOD (A-B GRADE)
MINIMUM LETTERING SIZE: (2-INCHES)

PROJECT SIGN DETAIL

NOT TO SCALE

EXHIBIT B (Required for CDBG Projects)

HUD Form 4010-Federal Labor Standards Provisions

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT C (Required for SRF Projects)

Federal Labor Standards Provisions
For
Federally Assisted Construction Contracts
United States Department of Labor
CFR Code of Federal Regulations Pertaining to ESA
(Federal Davis-Bacon Wages)

EXHIBIT D (Required for SRF Projects)

Disadvantaged Business Enterprise (DBE) Forms

6100-2; 6100-3; 6100-4

EXHIBIT E (Required for SRF Projects)

American Iron and Steel (AIS) Forms.

"General Decision Number: MT20190078 08/09/2019

Superseded General Decision Number: MT20180079

State: Montana

Construction Type: Heavy

Counties: Lake, Lincoln, Mineral, Ravalli and Sanders

Counties in Montana.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	08/09/2019

* ELEC0768-010 06/01/2019

	Rates	Fringes
ELECTRICIAN.....	\$ 31.47	13.88

ENGI0400-009 05/01/2013		

	Rates	Fringes
POWER EQUIPMENT OPERATOR: (Zone 1)		
(1) A-frame truck Crane, oiler (except crane).....	\$ 23.47	10.40
(2) Crane Oiler,Bulldozer, Roller (Dirt and Grade Compaction).....	\$ 23.94	10.40
(3) Mechanic, Scraper.....	\$ 24.34	10.40
(4) Cranes, 25 tons - 44 tons.....	\$ 27.00	11.40
(5) Cranes, 45 tons to and incl. 74 tons.....	\$ 28.00	11.40
(6) Cranes, 75 tons to and incl. 149 tons; Cranes, Whirley (All).....	\$ 29.00	11.40
(7) Cranes, 150 tons to including 250 tons (add \$1.00 for every 100 tons over 250 tons); Crane, Stiff- Leg or Derrick; Helicopter Hoist; Crane, Tower (all)...	\$ 30.00	11.40

ZONE DEFINITIONS FOR POWER EQUIPMENT OPERATORS:

The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the nearest County Court House of the following listed towns to the center of the job:

BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA

- Zone 1: 0 to 30 miles - Base Pay
- Zone 2: 30 to 60 miles - Base Pay + \$3.50
- Zone 3: Over 60 miles - Base Pay + \$5.50

IRON0014-016 07/01/2018

	Rates	Fringes
IRONWORKER: Reinforcing and Structural.....	\$ 27.25	24.37

SUMT2011-054 02/08/2011

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 24.30	7.80
CARPENTER, Excludes Form Work....	\$ 21.13	7.00
LABORER: Common or General.....	\$ 17.99	5.90
LABORER: Pipelayer.....	\$ 21.81	4.83
LABORER: Landscape and Irrigation.....	\$ 15.14	1.30
OPERATOR: Backhoe.....	\$ 21.44	8.05
OPERATOR: Bobcat/Skid		

Steer/Skid Loader.....	\$ 21.99	8.55
OPERATOR: Excavator.....	\$ 22.94	9.05
OPERATOR: Grader/Blade.....	\$ 24.69	8.40
OPERATOR: Loader (Front End)....	\$ 24.20	7.84
TRUCK DRIVER: Dump Truck.....	\$ 18.84	5.92

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average

calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.

Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

"General Decision Number: MT20190060 08/09/2019

Superseded General Decision Number: MT20180061

State: Montana

Construction Type: Building

Counties: Ravalli and Sanders Counties in Montana.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	01/18/2019
2	06/14/2019
3	08/09/2019

ASBE0082-002 08/01/2018

	Rates	Fringes
Heat and Frost Insulator.....	\$ 36.67	19.63

BOIL0011-002 08/01/2016

	Rates	Fringes
BOILERMAKER.....	\$ 30.25	29.86

BRMT0007-001 06/01/2018

	Rates	Fringes
BRICKLAYER.....	\$ 28.71	14.79

CARP0028-007 06/01/2018

	Rates	Fringes
CARPENTER (Including Drywall Hanging (Excluding Formwork))....	\$ 23.00	13.07

Zone Definition:

The hourly rate applicable to each project is determined by measuring the road miles over the shortest practical route from the County Courthouse of the following towns to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Lewiston, Miles City, and Missoula

Zone 1: 0 to 30 miles - Base Rate

Zone 2: 31 to 60 miles - \$4.00

Zone 3: over 60 miles - \$6.00

* ELEC0768-007 06/01/2019

	Rates	Fringes
ELECTRICIAN (Including Low Voltage Wiring for Alarms).....	\$ 31.47	13.88

ELEV0019-005 01/01/2019

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 54.09	33.705

FOOTNOTE:

- a. Employer contributes 8% of the basic hourly rate for over 5 year's service and 6% of the basic hourly rate for 6 months to 5 years' of service as vacation paid credit.
- b. Eight paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving and Christmas Day

ENGI0400-003 05/01/2013

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
(1) A-frame truck Crane.....	\$ 24.32	11.40
(4) Cranes 25-44 tons.....	\$ 27.00	11.40
(5) Cranes 45-74 tons.....	\$ 28.00	11.40
(6) Cranes 75 to 144 tons, whirley cranes.....	\$ 29.00	11.40
(7) Cranes, 150 tons to including 250 tons (add \$1.00 for every 100 tons over 250 tons); Crane,		

Tower (all).....\$ 30.00 11.40

ZONE DEFINITIONS FOR POWER EQUIPMENT OPERATORS:

The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the nearest County Court House of the following listed towns to the center of the job:

BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA

- Zone 1: 0 to 30 miles - Base Pay
Zone 2: 30 to 60 miles - Base Pay + \$3.50
Zone 3: Over 60 miles - Base Pay + \$5.50

IRON0014-008 07/01/2018

Table with 2 columns: Rates, Fringes. Row: IRONWORKER, STRUCTURAL AND REINFORCING.....\$ 27.25 24.37

LAB01686-006 05/01/2019

Table with 2 columns: Rates, Fringes. Row: LABORER (Zone 1) Mason Tender-Brick.....\$ 25.90 10.89

ZONE DEFINITIONS FOR LABORERS

The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the County Courthouse of the following listed town to the center of the job:

Billings, Bozeman, Butte, Helena, Great Falls, Missoula, Kalispell

TRAVEL ZONES:

ZONE 1: 0 to 30 miles, Base Pay

ZONE 2: 30-60, add \$3.05 to Base Pay

ZONE 3: Over 60 miles, add \$4.85 to Base Pay

PLUM0459-007 05/01/2018

	Rates	Fringes
PIPEFITTER, Excludes HVAC		
Pipe Installation.....	\$ 31.48	14.53
PLUMBER, Includes HVAC Pipe		
Installation.....	\$ 31.48	14.53

SHEE0103-009 07/01/2018

	Rates	Fringes
SHEET METAL WORKER (HVAC Duct		
Installation Only).....	\$ 29.62	17.42

SUMT2011-036 01/04/2011

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 18.76	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 18.27	1.50
LABORER: Common or General.....	\$ 15.02	0.00
OPERATOR: Excavator.....	\$ 20.39	4.38
OPERATOR: Forklift.....	\$ 21.44	8.05
PAINTER: Brush, Roller and		
Spray.....	\$ 19.18	0.00
ROOFER.....	\$ 20.20	0.00

TRUCK DRIVER: Dump Truck.....\$ 18.88 4.66

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular

rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

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- * a survey underlying a wage determination
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On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.)

and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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Wage and Hour Division
U.S. Department of Labor
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Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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U.S. Department of Labor
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Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

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Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION"

**SECTION 01150
MEASUREMENT AND PAYMENT**

Measurement and Payment shall be as specified in this section and shall include furnishing all labor, equipment and materials necessary to construct, complete, and deliver the bid items in accordance with the plans and specifications.

The following Measurement and Payment descriptions do not necessarily name all the items required to complete the work. The cost of all incidentals shall be included in the related bid item prices.

BASE BID PRICE

GENERAL & SURFACING

<u>Bid Item</u>	<u>Description</u>
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1.1	<u>Mobilization, Insurance, Permits, & Bonds:</u>
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General: This bid item shall consist of moving equipment and materials necessary for performing work required under this contract to and from the project site, preparation and delivery of all submittals, and all services necessary to obtain permits required to complete the construction of the project. This bid item shall also include costs associated with bonding, and insurance requirements.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Transport and set up all equipment, materials and other items needed to accommodate project startup, and to complete the project;
- Removal of all equipment, excess materials, and incidentals from the site upon project completion;
- All permits including City Right of Way permit, coordination and compliance inspections required for work;
- Contractor to obtain any necessary approvals from the City of Thompson Falls for accessing the site.
- Obtain a SWPPP permit and comply with all rules and regulations set forth by MT Dept. of Environmental Quality and City of Thompson Falls for storm water pollution protection. Coordination with MDT after receipt of SWPPP permit.

Measurement: Measurement shall be on a lump sum basis. No measurement of individual items will be made.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form with 60 percent to be paid when mobilization to begin construction is complete and the remaining 40 percent to be paid following demobilization, project completion and acceptance of the work.

1.2	<u>Miscellaneous Items:</u>
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General: This bid item shall be included in the contract for any minor work and/or material which may be encountered during construction, but which is not addressed elsewhere in the contract. Miscellaneous work will be measured

by the respective unit for material and/or work performed as directed in writing by the Engineer.

Measurement: Measurement shall be per each (EA) item.

Payment: Payment for Miscellaneous Work, measured as provided above, will be agreed prices or on a force account basis. The number of units in dollars set in the contract is an estimate amount only, which may be adjusted up or down by the Engineer in accordance with the needs of the project. Use of this item is at the sole discretion of the Engineer and is not guaranteed to be used. If the item is not used, there will be no payment to the Contractor for this item.

1.3

Site Preparation:

General: This bid item shall include clearing and grubbing the site in preparation for work identified in other bid items.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Clearing and grubbing the existing lawn from within the proposed work area and removal of cleared material. All existing trees shall remain on site and be protected during construction. Vegetation on existing sloped areas shall remain in place unless included in proposed re-grading activities;
- Work shall be completed in a manner that protects the existing irrigation system heads and piping. Cost to correct any damage to existing irrigation system shall be included in this bid item. Head adjustment to finished grade shall be paid under a separate bid item;
- The existing stockpiled soils shall be used as embankment material and shall be protected. Any existing debris, excess stockpiled soils, deleterious materials, or yard wastes shall be removed from the site and disposed of properly;
- Contractor shall use measures deemed necessary to protect stockpiled materials and completed work from degradation by potential precipitation and runoff in accordance with the SWPPP included in previous bid item;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement shall be one lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

1.4

3/8" Minus Gravels:

General: This bid item includes the supply, placement, and compaction of 3/8" minus crushed gravel ("crusher fines") in an in-place compacted depth indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;

- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Material shall be 3/8"-minus crusher fines. Work shall meet the requirements of Montana Public Works Standard Specifications Section 02235;
- Placement of 3/8"-minus crusher fines in gravel surface areas noted in the project drawings;
- Material shall meet the following gradation or approved equivalent:

<u>Sieve Size</u>	<u>Percent Passing</u>
3/8"	100
No. 4	60-90
No. 8	35-60
No. 16	20-40
No. 40	10-30
No. 200	4-12

- Contractor shall be familiar with the physical properties of their materials to responsibly bid quantities and account for differences between stockpile volumes, loose volumes, and compacted in-place volumes. Quantities for this bid item are based on in-place compacted volumes;
- Plasticity index shall be between 4 and 12 and compaction shall meet the requirements of ASTM D2041 at a minimum 95% compaction of the maximum dry density within +/- 3% of the optimum moisture content;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Include all additional quantities anticipated to account for excess materials hauled on-site, floor loss of stockpiles, and angle of repose on unconfined gravel edges. No additional payment will be provided for these additional materials and are considered incidental to the bid item. Any increases in payment quantities will only be considered due to plan changes or by written approval by the engineer prior to materials being placed;
- Contractor shall use measures deemed necessary to protect the stockpiled materials and completed work from degradation by potential precipitation and runoff;
- Furnishing and placing water for compaction;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for 3/8" minus crusher fines shall be by the in-place cubic yard (CY), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per in-place cubic yard (CY) listed on the bid form. No payment will be made for quantities in excess of the bid quantity without written approval by the Engineer prior to haul and placement of those quantities.

1.5

3/4" Minus Gravels:

General: This bid item includes the supply, placement, and compaction 3/4" minus crushed gravel in the in-place compacted depths indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, placement, testing, and incidentals necessary to complete the work as specified;
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Material shall meet the following gradation as noted in the geotechnical report for gravel surfacing or approved equivalent:

<u>Sieve Size</u>	<u>Percent Passing</u>
¾"	100
No. 4	50-78
No. 8	37-67
No. 40	4-15
No. 200	4-12

- Material shall be placed in accordance with the requirements noted in the geotechnical report.
- Contractor shall be familiar with the physical properties of their materials to responsibly bid quantities and account for differences between stockpile volumes, loose volumes, and compacted in-place volumes. Quantities for this bid item are based on in-place compacted volumes;
- Compaction shall meet the requirements of ASTM D698 at a minimum 95% compaction of the maximum dry density within +/- 3% of the optimum moisture content.
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Include all additional quantities anticipated to account for excess materials hauled on-site, floor loss of stockpiles, and angle of repose on unconfined gravel edges. No additional payment will be provided for these additional materials and are considered incidental to the bid item. Any increases in payment quantities will only be considered due to plan changes or by written approval by the Engineer prior to materials being placed;
- Contractor shall use measures deemed necessary to protect the stockpiled materials and completed work from degradation by potential precipitation and runoff;
- Furnishing and placing water for compaction;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for ¾" crushed base gravel shall be by the in-place cubic yard (CY), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per in-place cubic yard (CY) listed on the bid form. No payment will be made for quantities in excess of the bid quantity without written approval by the Engineer prior to haul and placement of those quantities.

1.6

1" Minus Gravels:

General: This bid item includes the supply, placement, and compaction of 1" minus crushed base gravel in an in-place compacted depth in the locations indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;

- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Material shall meet the following gradation as noted in the geotechnical report for structural backfill/crushed base course or approved equivalent:

<u>Sieve Size</u>	<u>Percent Passing</u>
1"	100
3/4"	80-100
1/2"	68-91
No. 4	46-70
No. 8	34-54
No. 40	13-35
No. 200	3-12

- Material shall be placed in accordance with the requirements noted in the geotechnical report.
- Contractor shall be familiar with the physical properties of their materials to responsibly bid quantities and account for differences between stockpile volumes, loose volumes, and compacted in-place volumes. Quantities for this bid item are based on in-place compacted volumes;
- Compaction shall meet the requirements of AASHTO T-99 at a minimum 95% compaction of the maximum dry density within +/- 3% of the optimum moisture content;
- Scarify subgrade to a minimum of 6" depth and cure with water to bring subgrade's moisture content to within 2% optimum. Compact to a standard relative compaction of at least 95% per AASHTO T-99;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Include all additional quantities anticipated to account for excess materials hauled on-site, floor loss of stockpiles, and angle of repose on unconfined gravel edges. No additional payment will be provided for these additional materials and are considered incidental to the bid item. Any increases in payment quantities will only be considered due to plan changes or by written approval by the Engineer prior to materials being placed;
- Contractor shall use measures deemed necessary to protect the stockpiled materials and completed work from degradation by potential precipitation and runoff;
- Furnishing and placing water for compaction;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for 1" minus crushed base gravel shall be by the in-place cubic yard (CY), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per in-place cubic yard (CY) listed on the bid form. No payment will be made for quantities in excess of the bid quantity without written approval by the Engineer prior to haul and placement of those quantities.

1.7

Street and ADA Parking Signs:

General: This bid item includes the supply and installation of permanent stop and ADA parking signs. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with, and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install three (3) ADA “Reserved Parking” signs (MUTCD #R7-8) in the location shown in the project drawings;
- Furnish and install one (1) stop sign (MUTCD #R1-1) in the location shown in the project drawings;
- Installation of all signs includes sign post, concrete base and anchor;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be per each (EA) item.

Payment: Payment shall be by the contract unit price for each (EA) item listed on the bid form.

1.8 **Concrete Wheel Stops:**

General: This bid item includes the supply and installation of concrete wheel stops. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install concrete wheel stops in the parking spaces within the asphalt parking lot, as noted on the construction plans;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be per each (EA) item.

Payment: Payment shall be by the contract unit price for each (EA) item listed on the bid form.

1.9 **Amphitheater Earthwork (Terraced Seating):**

General: This bid item shall include complete subgrade preparation, cut to fill of the existing ground (following topsoil stripping) to achieve finished subgrade elevations, slope excavation and shaping to the bottom of topsoil elevations, compaction of placed embankment material, and the placement and shaping of excess material in designated areas within the project site.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Excavation and subsequent placement of embankment material to achieve subgrade elevations and grades as shown in the project drawings, including excavation to bottom of topsoil elevations on the surrounding slopes;
- Material utilized for the embankment area for the purpose of structural fill shall be placed in lifts no greater than 8” thick;
- Work includes placement of approximately **230 CY** of on-site embankment material.

- Grading of the surface to reflect the proper subgrade contours and elevations as shown on the project drawings;
- Compaction meeting the requirements of Montana Public Works Standard Specifications Section 02221 & 02230 and in accordance with project drawings;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Furnishing and placing water for compaction;
- Provide all other materials and services required to meet the requirements of the project;

General: This bid item shall include all Layout, Construction Staking, and Surveying required to complete the project in accordance with the plans and specifications.

Measurement: Measurement shall be one lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

STRUCTURES

<u>Bid Item</u>	<u>Description</u>
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2.1	<u>Restroom Structure and Concrete Pad:</u>
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General: This bid item includes the supply, delivery, and installation of a two-unit restroom facility. This bid item shall include all costs associated with providing a restroom structure meeting the requirements as described in the project drawings and specifications, foundation, and setting and securing of the structure to the foundation and shall include those materials and installations necessary to meet project requirements and national, state, and local building codes. The structure shall be built to the dimensions and details as shown on the plans. Contractor to submit final proposed building plans complete with floor plan, elevations, framing details, and isometric view, including electrical plan prior to ordering. Contractor to coordinate with Owner for colors prior to ordering. Contractor to comply with all national, state, and local building codes and secure all permits necessary for construction.

Work Includes at a Minimum:

- Furnish to the site **one (1)** concrete-block restroom facility shown in the project drawings with the features noted on the project drawings;
- Submittals shall include shop drawings stamped by a professional structural engineer licensed in the state of Montana;
- Installation of the structure shall include all electrical connections and plumbing work necessary to provide a fully functional system.
- Foundation/floor for restroom facility shall provide for the plumbing associated with the facility and be placed in coordination with the water and sewer services supplied to the facility;
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;

- Include all parts, materials, labor, equipment, delivery to the site, installation, testing, and incidental items necessary for the completion of this work in accordance with the plans and Contract Documents.
- Formation of concrete and finish as noted in the Contract Documents;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- All forming, pouring, jointing, tooling, and incidentals necessary to construct the concrete pad as shown in the project drawings and as specified within the Contract Documents;
- Provide and place concrete materials in accordance with Montana Public Works Standard Specifications, geotechnical report, and Contract Document requirements;
- Placement of reinforcement within concrete pad as noted in the Contract Documents or geotechnical report or as required by building supplier;
- Provide all other materials and services to meet the project requirements.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

2.2

Pavilion Structure and Concrete Pad:

General: This bid item shall include all costs associated with providing a pavilion structure meeting the requirements as described in the project drawings and specifications, foundation, and setting and securing of the structure to the foundation and shall include those materials and installations necessary to meet project requirements and national, state, and local building codes. The structure shall be built to the dimensions and details as shown on the plans. Contractor to submit final proposed building plans complete with floor plan, elevations, framing details, and isometric view, including electrical plan prior to ordering. Contractor to coordinate with Owner for colors prior to ordering. Contractor to comply with all national, state, and local building codes and secure all permits necessary for construction.

Work Includes at a Minimum:

- Submittals shall include shop drawings stamped by a professional engineer licensed in the state of Montana;
- Furnish to the site **one (1)** pavilion structure including all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents;
- Installation of the structure includes all associated concrete footings, concrete slab connections, electrical connections associated with lighting the structure and any items needed for a complete and operable building;
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- All forming, pouring, jointing, tooling, and incidentals necessary to construct the concrete pad as shown in the project drawings and as specified within the Contract Documents;
- Formation of concrete and finish as noted in the Contract Documents;

- Provide and place concrete materials in accordance with Montana Public Works Standard Specifications, geotechnical report, and Contract Document requirements;
- Placement of reinforcement within concrete pad as noted in the Contract Documents or geotechnical report, or as required by building supplier;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Provide all other materials and services to meet the project requirements.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

2.3 **ADA Compliant Drinking Water Fountain:**

General: This bid item includes the supply and installation of an ADA compliant drinking water fountain. Include all parts, materials, labor, equipment, testing, final cleanup, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install **one (1)** drinking water fountain of the type and in the location indicated on the project drawings;
- Coordinate installation and connection to the water service line with the City of Thompson Falls.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be by lump sum (LS) item listed on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

2.4 **Information Kiosk Structure:**

General: This bid item includes the supply and installation of information kiosk structure. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install **one (1)** information kiosk as shown in the project drawings with wood shingled roof and posts;
- Exposed wood shall be stained;

- Signage panels shall consist of framed wood panels as shown in the project drawings. Maps and information to be placed on the panels shall be provided by the City of Thompson Falls at a later date;
- Furnish and install four (4) 12" diameter concrete Sonotube column bases to a min. depth of 36" from top of grade shown in the project drawings;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be by lump sum (LS) item listed on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

2.5 **Park Entry Sign:**

General: This bid item includes the supply and installation of park entry sign. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install one (1) park entry sign shown in the project drawings;
- Furnish and install two (2) - 4" steel tubes with cap, powder coated dark brown shown in the project drawing details;
- Furnish and install two (2) arched painted wood panels shown in the project drawing details;
- Furnish and install metal sign with metal sign panel graphics shown in the project drawing details;
- Furnish and install (2) 16" diameter concrete Sonotube column bases to depth of 42" from top of grade shown in the project drawings;
- Installation of all incidentals necessary to complete the work;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

RECREATIONAL AMENITIES

<u>Bid Item</u>	<u>Description</u>
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3.1	<u>Trash Receptacles:</u>
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General: This bid item includes the supply and installation of trash receptacles. Include all parts, materials, labor, equipment, testing, and incidental items

necessary for the completion of this work as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install urbanscape powder coated receptacle/ash urns and associated concrete foundation in accordance with the manufacturer's recommendations and the geotechnical report for concrete flatwork. Trash receptacle shall be hunter green with square perforations and dome style lid as manufactured by Wabash Valley or approved equal as shown in the project drawings details;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

3.2 **Dog Waste Station:**

General: This bid item includes the supply and installation of a dog waste station. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install one (1) dog waste station or equal, shown in the project drawings and in accordance with manufacturer's recommendations;
- Material shall include green powder coated aluminum sign, post, bag dispenser, cannister, 400 plastic roll bags, and hardware, as manufactured by Dog Waste Depot or approved equal.
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

3.3 **Bike Rack:**

General: This bid item includes the supply and installation of bike racks. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install urbanscape powder coated bike loops/racks, surface mounted, black color, "Serpentine" type as manufactured by Wabash Valley or approved equal;
- Provide associated concrete foundation in accordance with the manufacturer's recommendations and the geotechnical report for concrete flatwork;

- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

3.4 **Bike Fix-it Station with Air Pump and Gauge:**

General: This bid item includes the supply and installation of bike fix-it station with air pump and gauge. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install one (1) bike fix-it station with outdoor-rated air pump and gauge as manufactured by Bike Fixation or approved equal, as shown in the project drawings;
- Bike fix-it station shall be red powder coated steel. Air pump and gauge shall be outdoor-rated stainless steel with air pressure gauge included;
- Mount components to 3' by 3' by 4" thick concrete slab, 3,000 psi minimum strength in accordance with manufacturer's recommendations.
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

DRY UTILITIES

Bid Item Description

4.1 **Restroom Electrical Service and Pavilion Lighting:**

General: This bid item includes the supply and installation of lighting and power to the restroom and pavilion. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install lighting, wiring, trenching, and conduits and the following items as shown in the project drawings:
 - Southeast utility pole breaker for the meter panel
 - 100A feeder to the restroom
 - 20A feeder (wiring) to the pavilion
 - Restroom panel
 - Restroom power and lights
 - Pavilion power and lights

- Service to the restroom and pavilion and associated wiring and conduit shall come from the southeastern utility pole and meter panel as noted on the plans;
- Surface mounted light fixtures shall be installed as noted on the plans in accordance with the light fixture and control schedule;
- Excavation of utility trench and properly compacted backfill, testing and coordination with and acceptance from utility company;
- Include NorthWestern Energy service connection fees for this service.
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be by lump sum (LS) item listed on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative

4.2

Amphitheater Stage Service and Power Outlet Panel:

General: This bid item includes the supply and installation of a stage power outlet panel on a pressure treated wood post to serve the amphitheater area as shown on plans. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install a stage power outlet panel in accordance with the detail 1-E1 shown in the project drawings;
- Service to the panel from the northwest utility pole and associated wiring and conduits and provide the following in accordance with the project drawings:
 - Northwest utility pole meter main panel
 - 100A feeder (wiring) to the stage area
 - Stage panel
 - Stage power
- Excavation of utility trench and properly compacted backfill, testing and coordination with and acceptance from utility company;
- Include NorthWestern Energy service connection fees for this service.
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

LANDSCAPING

<u>Bid Item</u>	<u>Description</u>
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5.1	<u>Drill Seeding:</u>
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General: This bid item shall include complete drill seeding. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Supply and place drill seeding mixture in accordance with the project drawings;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for drill seeding shall be by the square foot (SF), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per square foot (SF) on the bid form.

5.2	<u>Topsoil:</u>
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General: This bid item shall include complete topsoil and soil amendments. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Supply and place in accordance with the project drawings.
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for topsoil shall be by the cubic yard (CY), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per cubic yard (CY) on the bid form.

5.3	<u>Irrigation System Adjustments and Reconfiguration:</u>
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General: This bid item shall include complete irrigation system adjustment and reconfiguration. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Adjust and reconfigure existing irrigation system shown on the project drawings;
- Furnish and install irrigation system shown on the project drawings;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for irrigation system adjustments and reconfiguration shall be by lump sum (LS) item, complete and accepted in-place as shown in the project drawings or approved by the Engineer.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

5.4 **Tree Landscaping**

General: This bid item includes the supply and installation of tree landscaping. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls requirements and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install trees of the varieties and sizes shown in the project drawings;
- Tree placement shall be in the locations shown in the project drawings and in accordance with the details therein;
- Final cleanup and complete removal of excess material.
- 1-year warranty period for installed trees.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

5.5 **Placement of City-Supplied Boulders**

General: This bid item includes the installation of City-supplied boulders. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Furnish and install boulders as shown in the project drawings;
- Boulder size shall typically be 3/4 to 1 ton and will be provided to the site by the City.
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

END OF BASE BID

ADDITIVE BID ALTERNATES

BID ALTERNATE 1 - AMPHITHEATRE AREA UPGRADES

ALT 1.1 REMOVE 3/8" Minus Crushed Gravel (BASE BID 1.4)

Remove Base Bid Item 1.4 for the quantity shown in the bid form: This bid item includes removing the supply, placement, and compaction of 3/8" minus gravels in a 2" in-place compacted depth within the amphitheater gravel stage area base bid as indicated in the project drawings and Contract Documents.

ALT 1.8 ADD Prefabricated Amphitheater Stage Structure and Concrete Pad

General: This bid item includes the supply, delivery, and installation of a prefabricated amphitheater stage structure. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents. This bid item includes forming, pouring, and all jointing to construct all types of concrete pad complete as shown in the project drawings including transitions, terminations, forming, and all incidentals and in accordance with the latest edition of the Montana Public Works Standard Specifications and Contract Document requirements.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Submittals shall include shop drawings stamped by a professional engineer licensed in the state of Montana;
- Furnish to the site **one (1)** "98-RM 22026 2T-SPSB" Rocky Mountain Series Shelter as manufactured by Natural Structures or approved equal as shown in the project drawings;
- Provision of the structure shall include any required taxes and the shipping necessary to bring the structure to the site in the required location;
- Installation of the structure shall include all associated foundation connections, concrete footings, electrical connections, and all incidentals.
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Provide and place concrete materials in accordance with Montana Public Works Standard Specifications, geotechnical report, and Contract Document requirements;
- Placement of reinforcement within concrete pad as noted in the Contract Documents or geotechnical report;
- Formation of concrete and finish as noted in the Contract Documents;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;

- All forming, jointing, and tooling necessary to construct the concrete pad as shown in the project drawings and as specified within the Contract Documents;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

ALT 1.3 ADD Amphitheater Stage Structure Lighting:

General: This bid item includes the supply and installation of lighting to the amphitheater stage structure. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install lighting as shown in the project drawings details;
- Surface mounted light fixtures shall be installed as noted on the plans in accordance with the light fixture and control schedule;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be lump sum (LS) item.

Payment: Payment shall be by lump sum (LS) item listed on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative

BID ALTERNATE 2 - ADDITIONAL LANDSCAPING

ALT 2.1 ADD Shrub Landscaping:

General: This bid item includes the supply and installation of shrub landscaping. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install shrubs of the varieties and sizes shown in the project drawings;
- Shrub placement shall in the locations shown in the project drawings and in accordance with the details therein;
- Final cleanup and complete removal of excess material.

- 1-year warranty period for installed shrubs.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 2.2 ADD Perennial Landscaping

General: This bid item includes the supply and installation of perennial landscaping. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls requirements and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install perennials of the varieties and sizes shown in the project drawings;
- Perennial placement shall in the locations shown in the project drawings and in accordance with the details therein;
- Final cleanup and complete removal of excess material.
- 1-year warranty period for installed perennials.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 2.3 Aluminum Landscape Edging:

General: This bid item shall include complete installation of aluminum landscape edging around the landscape bed areas. Include all parts, materials, labor, equipment, and incidental items necessary for the completion of this work as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for aluminum landscape edging shall be by the linear foot (LF), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities of aluminum landscape edging at the contract unit price bid per linear foot (LF) listed on the bid form.

ALT 2.4 Shredded Cedar Mulch (2" depth) and Weed Barrier:

General: This bid item shall include complete installation of weed barrier and a 2" depth of shredded cedar mulch in the landscape bed areas. Include all parts, materials, labor, equipment, and incidental items necessary for the completion of this work as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for shredded cedar mulch and weed barrier shall be by the square foot (SF), complete and accepted in-place as shown in the drawings or approved by the Engineer.

Payment: Payment will be made for complete, measured, and accepted quantities of shredded cedar mulch and weed barrier at the contract unit price bid per square foot (SF) listed on the bid form.

BID ALTERNATE 3 - SITE FURNITURE

ALT 3.1 ADD Benches

General: This bid item includes the supply and installation of benches. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and Install urbanscape powder coated 6' long benches with back and associated concrete footings. Inground benches shall be "Camden" style with hunter green color, square perforations, and textured black bench leg as manufactured by Wabash Valley or approved equal and as shown in the project drawings details;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 3.2 ADD Metal Picnic Tables

General: This bid item includes the supply and installation of metal picnic tables. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install metal picnic tables as shown in the project drawings. Tables shall be 8' long ADA compliant and portable, hunter green color, cross surface pattern, "Signature" style as manufactured by Wabash Valley or approved equal;
- Final placements of picnic tables shall be within the pavilion structure;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 3.3 ADD Relocate Existing Veteran's Memorial Benches

General: This bid item includes the relocation of the existing benches at the Veteran's Memorial within Ainsworth Park. Include all parts, materials, labor, equipment, and incidental items necessary for the completion of this work in accordance with City of Thompson Falls as required and as indicated in the plans and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, and incidentals necessary to complete the work as specified;
- Relocation of the existing benches in the locations shown on the project drawings entails sufficient anchoring of the benches in accordance with the requirements of the City of Thompson Falls and clean removal from their existing location;
- Contractor is responsible to correct any damage that occurs to the existing surfacing surrounding the existing benches during removal;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

BID ALTERNATE 4 - BOLLARD AND PARK ENTRY SIGN LIGHTING

ALT 4.1 ADD Light Bollards

General: This bid item includes the supply and installation of light bollards as shown on the plans as "Electrical Alternate #1". Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install light bollards as shown in the project drawings;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 4.2 ADD Flood Light for Park Entry Sign

General: This bid item includes the supply and installation of a flood light at the park entry sign location. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install flood light as shown in the project drawings;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

ALT 4.3 ADD Wiring/Trenching

General: This bid item includes the supply and installation of trenching, conduit, and wiring as required to serve the light bollards and flood light. Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Excavation of utility trench and properly compacted backfill, testing and coordination with and acceptance from utility company;
- Furnish and install the following items as shown in the project drawings:
 - 1" Schedule 40 conduit
 - 30 Amp feeder (wiring) to serve the flood light, bollards, and light poles indicated on the plans
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

BID ALTERNATE 5 - PARKING LOT LIGHTING

ALT 5.1 ADD Parking Area Light Poles:

General: This bid item includes the supply and installation of light poles in the parking area as shown on the plans as "Electrical Alternate #2". Include all parts, materials, labor, equipment, testing, and incidental items necessary for the completion of this work in accordance with the project drawings (with associated electrical specifications) and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Furnish and install the light poles, fixtures, and bases as shown in the project drawings and connection to the wiring/conduit provided in bid alternate #4;
- Final cleanup and complete removal of excess material.

Measurement: Measurement shall be each (EA) item.

Payment: Payment shall be by each (EA) item listed on the bid form.

BID ALTERNATE 6 - PAVED TRAIL AND ADA RESERVED PARKING STALLS

ALT 6.1 REMOVE 3/8" Minus Gravels (UNIT PRICE BASE BID 1.4)

Remove a portion of Base Bid Item 1.4 for the quantity shown in the bid form: This bid item includes removing the supply, placement, and compaction of ¾" minus crushed gravel in a 3" in-place compacted depth associated with base bid gravel surfacing within the parking lot.

ALT 6.2 Asphalt Pavement (2.5" Depth):

General: This bid item includes the supply, placement, and compaction of a 2.5" in-place depth of asphalt using ¾" minus plant mix for asphalt pavement path and parking area as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Supply and placement of a 2.5" compacted depth Grade "B" asphalt mix meeting Montana Public Works Standards and requirements;
- The asphaltic cement should be a Performance Graded (PG) binder having a 58-28 grade in accordance with AASHTO MPI;
- Material gradation and work shall meet the requirements of Montana Public Works Standard Specifications Section 02500;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Proper quality control measures to establish adequate rolling patterns to achieve required compaction;
- Installed at the grades and elevations depicted on the plans and results in providing smooth transitions within paved areas;
- Paving shall avoid distinct edges and abrupt transitions to existing pavement;
- Base bid area is associated with the asphalt path and ADA parking spaces.
- Work shall be conducted in weather conditions conducive to paving operations per Montana Public Works Standards;
- Traffic shall be prevented from driving over in-place base material;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for 2.5" Depth Grade B Asphalt Pavement shall be by the square foot (SF), complete and accepted in-place as shown in the drawings or approved by the Engineer. Base material shall be measured and paid under a separate bid item.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per square foot (SF) listed on the bid form.

ALT 6.3 Parking Lot Striping (ADA Parking Spaces):

General: This bid item includes painted traffic control, ADA parking space striping, and handicapped parking symbols & striping in accordance with MUTCD standards, Americans with Disabilities Act, and any applicable City of

Thompson Falls regulations. Include all parts, materials, labor, equipment, and incidental items necessary for the completion of this work as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials and incidentals necessary to complete the work as specified;
- Installation of asphalt striping installed per applicable standards and in all locations as required by Montana Public Works Standard Specifications, the Americans with Disabilities Act, the Manual of Uniform Traffic Control Devices, and as shown in the project drawings;
- Final cleaning and all items required to close out the project for this bid item;

Measurement: Measurement shall be one lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

BID ALTERNATE 7 - PAVED PARKING AREA

ALT 7.1 REMOVE 3/4" Minus Gravels (UNIT PRICE BASE BID 1.5)

Remove a portion of Base Bid Item 1.4 for the quantity shown in the bid form: This bid item includes removing the supply, placement, and compaction of ¾" minus crushed gravel in a 3" in-place compacted depth associated with base bid gravel surfacing within the parking lot.

ALT 7.2 Asphalt Pavement (2.5" Depth):

General: This bid item includes the supply, placement, and compaction of a 2.5" in-place depth of asphalt using ¾" minus plant mix for asphalt pavement path and parking area as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials, testing, and incidentals necessary to complete the work as specified;
- Measures to fully comply with all applicable and customary practices required by regulatory agencies or relevant trade standards;
- Supply and placement of a 2.5" compacted depth Grade "B" asphalt mix meeting Montana Public Works Standards and requirements;
- The asphaltic cement should be a Performance Graded (PG) binder having a 58-28 grade in accordance with AASHTO MP1;
- Material gradation and work shall meet the requirements of Montana Public Works Standard Specifications Section 02500;
- Quality Control - Laboratory and Field Testing in accordance with the Contract Documents shall be incidental to this bid item;
- Proper quality control measures to establish adequate rolling patterns to achieve required compaction;
- Installed at the grades and elevations depicted on the plans and results in providing smooth transitions within paved areas;

- Paving shall avoid distinct edges and abrupt transitions to existing pavement;
- Base bid area is associated with the asphalt path and ADA parking spaces.
- Work shall be conducted in weather conditions conducive to paving operations per Montana Public Works Standards;
- Traffic shall be prevented from driving over in-place base material;
- Provide all other materials and services required to meet the requirements of the project;

Measurement: Measurement for 2.5" Depth Grade B Asphalt Pavement shall be by the square foot (SF), complete and accepted in-place as shown in the drawings or approved by the Engineer. Base material shall be measured and paid under a separate bid item.

Payment: Payment will be made for complete, measured, and accepted quantities at the contract unit price bid per square foot (SF) listed on the bid form.

ALT 7.3

ADD Parking Lot Striping (for all non-ADA Parking Spaces):

General: This bid item includes painted traffic control parking space striping in accordance with MUTCD standards and any applicable City of Thompson Falls regulations. Include all parts, materials, labor, equipment, and incidental items necessary for the completion of this work as required and as indicated in the project drawings and Contract Documents.

Work Includes at a Minimum:

- All labor, tools, equipment, materials and incidentals necessary to complete the work as specified;
- Installation of painted striping over asphalt installed per applicable standards and in all locations as required by Montana Public Works Standard Specifications, the Manual of Uniform Traffic Control Devices, and as shown in the project drawings;
- Final cleaning and all items required to close out the project for this bid item.

Measurement: Measurement shall be one lump sum (LS) item.

Payment: Payment shall be at the contract lump sum (LS) price on the bid form. Partial payment in accordance with the schedule of values and completed progress of this bid item will be allowed once the Contractor has completed the work for the construction sequence and the work has been approved by the Owner's Representative.

END OF ADDITIVE ALTERNATES

AINSWORTH COMMUNITY PARK PROJECT

DIVISION D

STANDARD FORMS

AINSWORTH COMMUNITY PARK PROJECT

MONTHLY PAY ESTIMATE SUMMARY



Ainsworth Community Park Project
 CDBG Project: #MT-CDBG-17PF-13
 Engineer Project: 17-07-25
 Estimate No. _

<u>DESCRIPTION</u>	<u>THIS MONTH</u>	<u>AMOUNTS PREVIOUS</u>	<u>TO DATE</u>
Earnings for Work & Materials			
Installed:			
Plus Invoice for			
Materials Stored:			
Less Materials Used:			
Subtotal:			
5% Retainage:			
Net Earnings:			
Less 1% Misc. State Tax:			
Gross Payment:			
Less Previous Payments			
Net Payment this Estimate:			
 Percent Time Elapsed:			
Work Done Based on Installed Cost:			
Contract Completion Data:			
Notice to Proceed Date:			
Original Contract Completion Date:			
Stop/Resume Work Orders (dy):			
Approved Time Extensions (dy):			
New Contract Completion Date:			
Contract Completion Date:			
 Contract Cost Data:			
Amount of Original Contract:	\$		
Approved Changes:			
Revised Amount:			

Approved by _____(Contractor):

Approved by WGM Group, Inc. (Engineer):

Approved by Owner (City of Thompson Falls):

Certificate of Substantial Completion

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

This [tentative] [definitive] Certificate of Substantial Completion applies to:

- All Work under the Contract Documents: The following specified portions:

_____ Date of Substantial Completion

The work to which this Certificate of Substantial Completion applies has been inspected by authorized representatives of Owner, Contractor and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared.

A [tentative] [revised tentative] [definitive] list of items to be completed or corrected, is attached hereto, if applicable. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, insurance and warranties shall be as provided in the Contract Documents except as amended as follows:

- Amended Responsibilities Not Amended

Owner's Responsibilities:

Contractor's Responsibilities:

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

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

Executed by Engineer

Date

Executed by Contractor

Date

Executed by Owner

Date

Change Order No.

Date of Issuance: _____

Effective Date: _____

Project:	Owner:	Owner's Contract No.:
Contract:	Date of Contract:	
Contractor:	Engineer's Project No.:	

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

Description:

Attachments: (List documents supporting change):

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:

\$
[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____ :

Original Contract Times: Working Days Calendar Days
Substantial completion (days or date):

Ready for final payment (days or date):

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____ :
Substantial completion (days or date):

\$
Contract Price prior to this Change Order:

\$
[Increase] [Decrease] of this Change Order:

Ready for final payment (days or date):

Contract Times prior to this Change Order:
Substantial completion (days or date):

Ready for final payment (days or date):

[Increase] [Decrease] of this Change Order:
Substantial completion (days or date):

\$
Contract Price incorporating this Change Order:

Ready for final payment (days or date):

Contract Times with all approved Change Orders:
Substantial completion (days or date):

Ready for final payment (days or date):

RECOMMENDED:

ACCEPTED:

ACCEPTED:

By: _____
Engineer (Authorized Signature)

By: _____
Owner (Authorized Signature)

By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable):

____ Date: _____

Miscellaneous Work Authorization No. _____



Date of Issuance: _____

Effective Date: _____

Project:	Owner:	Owner's Contract No.:
Contract:		Date of NTP:
Contractor:		Engineer's Project No.:

DESCRIPTION OF AUTHORIZED WORK:

Attachments: (List documents supporting Miscellaneous Work Authorization):

All parties must agree to any claim for additional contract time relating to this Miscellaneous Work Authorization. If additional contract time is warranted, this time shall be granted through a written Change Order authorization.

Additional Days Requested Relating to Miscellaneous Work (to be included in Change Order): x _____ TOTAL

AMOUNT AUTHORIZED FOR MISCELLANEOUS WORK: \$ _____

RECOMMENDED:

By: _____
Engineer (Authorized Signature)

Date: _____

ACCEPTED:

By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:

By: _____
Contractor (Authorized Signature)

Date: _____

LIEN/CLAIM WAIVER CONDITIONAL / UNCONDITIONAL

FROM: _____ **PROJECT:** _____
Address _____ **Location** _____

Contact Person: _____ **Project Manager:** _____
Contact Telephone: _____ **Project Telephone:** _____

CONDITIONAL	UNCONDITIONAL RELEASE
<p>The undersigned does hereby acknowledge that upon receipt by the undersigned of a check from (Name of Firm writing check): _____ in the sum of _____ and when the check has been properly endorsed and has been paid by the bank upon which it was drawn, this document shall become effective to release pro tanto any and all claims and rights of lien which the undersigned has on the above referenced job. This release covers a progress payment for labor, services, equipment, materials furnished and/or claims thought (date): _____ only and does not cover any retention of items furnished after that date. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.</p> <p>I CERTIFY UNDER PENALTY OF PERJURY UNDER LAWS OF THE STATE OF MONTANA THAT THE ABOVE IS A TRUE AND CORRECT STATEMENT.</p> <p>Signature: _____</p>	<p>The undersigned does hereby acknowledge that the undersigned has been paid and has received progress payments in the sum of _____ for labor, services, equipment or materials furnished to the above referenced job and does hereby release pro tanto any and all claims and rights of lien which the undersigned has on the above referenced job. This release covers all payments for labor, services, equipment, materials furnished and/or claims to the above referenced job through (date): _____ only and does not cover any retention or items furnished after that date.</p> <p>NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY LAND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE THE CONDITIONAL RELEASE FORM TO THE LEFT.</p> <p>I CERTIFY UNDER PENALTY OF PERJURY UNDER LAWS OF THE STATE OF MONTANA THAT THE ABOVE IS A TRUE AND CORRECT STATEMENT.</p> <p>Signature: _____</p>
(Authorized /Corporate Officer/Partner/Owner)	(Authorized /Corporate Officer/Partner/Owner)
(Title)	(Title)
Dated this _____, 200__ at _____	Dated this _____, 200__ at _____
(City, State)	(City, State)

AFFIDAVIT OF BILLS PAID FOR RELEASE OF FINAL PAYMENT

STATE OF MONTANA)
)
COUNTY OF SANDERS)

BEFORE ME, the undersigned authority, on this day personally

appeared _____, representing Contractor under the following Contract:

Owner: CITY OF THOMPSON FALLS

Contractor: _____

Date: _____

PROJECT: _____

The undersigned was by me duly sworn and now states upon oath:

1. The improvements required by the PROJECT Contract have been erected and completed in full compliance with the Contract and the agreed plans and specifications for the Contract.
2. All bills and claims for materials furnished and labor performed on the Contract have been paid. There are no outstanding unpaid bills or legal claims for labor performed or materials furnished upon the job.
3. This Affidavit is being made by the undersigned realizing that it is in reliance upon the truthfulness of the statements contained in this Affidavit that final and full settlement of the balance due on the Contract is being made, and in consideration of the disbursement of funds by the Owner, the undersigned expressly gives and releases all liens, claims and rights to assert a lien on said premises and agrees to indemnify and hold Owner safe and harmless from and against all losses, damages, costs, and expenses of any character whatsoever, specifically including court costs, bonding fees, and attorney's fees, arising out of or in any way relating to, claims for unpaid labor or material used or associated with construction of improvements under the Contract.

By: _____
(SIGNATURE)

Name: _____

Title: _____

(SEAL)

Subscribed and sworn to before me, the undersigned authority,
on this the _____ day of _____, 200_

(SIGNATURE)

Notary Public in and for the State of Montana

My Commission Expires: _____

APPENDIX A

DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF THE
RESIDENT PROJECT REPRESENTATIVE

AINSWORTH COMMUNITY PARK PROJECT

**DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF THE
RESIDENT PROJECT REPRESENTATIVE**

A. General:

1. Resident Project Representative is Engineer's agent and shall act as directed by and under the supervision of Engineer. He shall confer with Engineer regarding his actions. His dealings in matters pertaining to the on-site Work will in general be only with Engineer and Contractor. His dealings with subcontractors will only be through or with the full knowledge of Contractor or his superintendent. He shall generally communicate with Owner only through or as directed by Engineer.

B. Duties and Responsibilities: The Resident Project Representative is responsible to serve as the Owner's and Engineer's liaison with the Contractor. The Resident Project Representative is responsible for:

1. Schedules: Review the progress schedule, schedule of Shop Drawing submission, schedule of values and other schedules prepared by Contractor and consult with Engineer concerning their acceptability.
2. Conferences: Attend preconstruction conferences. Arrange schedule of progress meetings and other job conferences as required in consultation with Engineer and notify in advance those expected to attend. Attend meetings and maintain copies of minutes thereof.
3. Liaison:
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the Contract Documents. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
 - b. As requested by Engineer assist in obtaining from Owner additional details or information, when required at the jobsite for proper execution of the Work.
 - c. In the interest of preserving the proper channels of communication, advise Engineer of any direct communication between Owner and Contractor.
4. Shop Drawings and Samples:
 - a. Receive and record date of receipt of Shop Drawings and samples which have been reviewed by Engineer.
 - b. Receive samples which are furnished at the site by Contractor for Engineer's review, and notify Engineer of their availability for examination.
 - c. Advise Engineer and Contractor or his superintendent immediately after becoming aware of the commencement of any Work requiring a Shop Drawing or sample submission if the submission has not been accepted by Engineer.
5. Review of Work, Rejection of Defective Work, Inspections, and Tests:
 - a. Conduct on-site observations of the Work in progress to assist Engineer in determining that the Project is proceeding in accordance with the Contract

AINSWORTH COMMUNITY PARK PROJECT

- Documents and the completed Work will conform to the Contract Documents.
- b. Report to Engineer whenever he believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents; or has been damaged; or does not meet the requirements of any required inspections, tests or approvals and advise Engineer when he believes Work should be corrected or rejected, or should be uncovered for observation, or requires special testing or inspection.
 - c. Verify that tests, equipment and systems startups and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that Contractor maintains adequate records thereof; observe, record, and report to Engineer appropriate details relative to the test procedures and startups.
 - d. Accompany Owner and visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections, and report to Engineer.
6. Interpretation of Contract Documents: Transmit to Contractor clarification and interpretation of the Contract Documents as issued by Engineer.
7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings and Specifications and report them with recommendations to Engineer.
8. Records:
- a. Maintain at the jobsite orderly files for correspondence; reports of job conferences; Shop Drawings and sample submissions; reproductions of original Contract Documents including all addenda, change orders, field orders, and additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports and other Project-related documents.
 - b. Keep a diary or daily log book, recording hours on the jobsite, weather conditions, data relative to questions of extras or deductions, list of principal visitors, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures. Send copies to Engineer.
 - c. Record names, addresses, and telephone numbers of all contractors, subcontractors and major suppliers of equipment and materials.
 - d. Advise Engineer whenever Contractor is not currently maintaining an up-to-date copy of Record Drawings at the site.
 - e. Perform a cursory check of Contractor's record drawing set at least bi-weekly and prior to approval of each progress payment.
 - f. Contractor is advised that Engineer's jobsite records will not be routinely available to Contractor and that Engineer's jobsite recordkeeping and review efforts shall not diminish Contractor's obligations.
9. Reports:
- a. Furnish Engineer periodic reports, as required, of progress of the Work and of Contractor's compliance with the approved progress schedule, schedule of Shop Drawing submissions and other schedules.
 - b. Consult with Engineer before scheduled major tests, inspections, or start of important phases of the Work.

AINSWORTH COMMUNITY PARK PROJECT

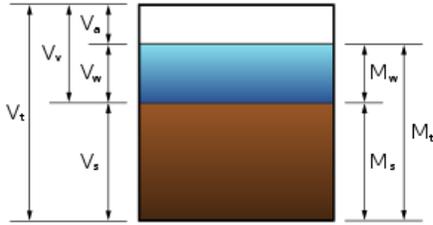
10. Payment Requisitions: Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward them with recommendations to Engineer, noting particularly their relation to the schedule of values, work completed, and materials and equipment delivered at the site.
 11. Guarantees, Certificates, Operating and Maintenance Manuals: During the course of the Work, verify that guarantees, certificates, Operation and Maintenance manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed; and deliver these data to Engineer for his review and forwarding to Owner prior to final acceptance of the Work.
 12. Completion:
 - a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring correction.
 - b. Conduct final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be corrected.
 - c. Verify that all items on final list have been corrected and make recommendations to Engineer concerning acceptance.
- C. Limitation of Authority: Except upon written instructions of Engineer, Resident Project Representative:
1. Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
 2. Shall not undertake any of the responsibilities of Contractor, Subcontractor, or Contractor's superintendent.
 3. Shall not expedite Work for the Contractor.
 4. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction unless such is specifically called for in the Contract Documents.
 5. Shall not advise on, issue directions, or enforce any regulation as to safety precautions and programs in connection with the Work.
 6. Shall not authorize Owner to occupy the Project in whole or in part.
 7. Shall not participate in specialized field or laboratory tests or inspections conducted by others.
 8. Shall not assist Contractor in maintaining up-to-date copy of Drawings.
 9. Shall not authorize any deviation from the Contract Documents unless written instruction of the ENGINEER and OWNER are received.

AINSWORTH COMMUNITY PARK PROJECT

APPENDIX B

GEOTECHNICAL ENGINEERING REPORT

AINSWORTH COMMUNITY PARK PROJECT



Lorenzen Soil Mechanics, Inc.

Ainsworth Park Improvements Geotechnical Engineering Report Thompson Falls, Montana

Prepared for:
The City of Thompson Falls
P.O. Box 99
Thompson Falls, MT 59873
&
WGM Group, Inc.
321 1st Avenue West
Kalispell, MT 59901

Prepared by:
Lorenzen Soil Mechanics, Inc.
2720 Palmer Drive, Unit C
Missoula, Montana 59808

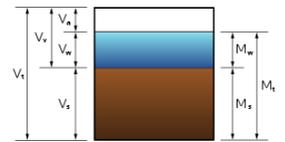
December 10, 2018

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Appendix A. Logs of Test Pits and Testing Results

Appendix B. Photographs



1 INTRODUCTION

The WGM Group requested Lorenzen Soil Mechanics, Inc. (LSM) to complete a geotechnical investigation for proposed improvements at Ainsworth Park in Thompson Falls, Montana. The improvements include a pavilion, rest room facilities, amphitheater with a covered stage, a gravel-surfaced parking area and an asphalt-paved parking area.

The primary purpose of the investigation was to evaluate the subgrade materials and to use that information to provide foundation, typical section, and materials recommendations for the proposed improvements.

2 SITE EVALUATION

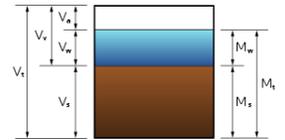
Ainsworth Park is a relatively flat area sloping downwards toward the southeast. It is irrigated with an underground sprinkler system and is home to the Veterans Memorial at the Park's south border. Maiden Lane is the Park's south border, and Lincoln Street is its east border. The Park's southeast corner sits approximately 8 feet above the Maiden Lane/Lincoln Street intersection. A 3.25 Horizontal to 1 Vertical (3.25H:1V) slope leads up to Montana Highway 200 above the Park's north border and residential lots form the Park's west border.

The Natural Resources Conservation Service (NRCS) has identified Ainsworth Park's upper soil profile as Elkrock-Selon complex (473D). A soil map is depicted in Figure 1. A complex is two or more soils in an intricate pattern that cannot be shown separately. A description of the Elkrock soil series includes very gravelly ashy silt loam in the Bw horizon overlying extremely cobbly loam in the 2C horizon. Elkrock soils are associated with stream terraces. Selon soils are also associated with stream terraces and are described as fine sandy loam in the A and E/Bw horizons.

A subsurface investigation was completed on November 29, 2018. The City of Thompson Falls provided and operated their Caterpillar 420 D backhoe/loader to excavate four test pits. Figure 2 presents the test pit locations. Horizontal coordinates were obtained using a Garmin eTrex Vista[®] HCx GPS unit.

The native materials encountered during the subsurface investigation tended to be alluvial deposits. TP-01, TP-03, and TP-04 were each excavated on the Park's open area and closely matched what has been described as Elkrock soil series. TP-02 was excavated within the slope above the Park's open area that rises up to MT Highway 200. Glacial Lake Missoula varved silt and clay were encountered in this test pit. The moisture content increased at depth in TP-02 and the varves were not discernable.

Logs of the test pits and testing results are presented in Appendix A. Photographs of the excavating operations and soil samples are provided in Appendix B.



3 RECOMMENDATIONS

3.1 Pavilion, Rest Room Facilities, and Amphitheater Stage Sites

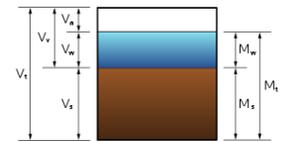
TP-03 and TP-04 represent the soils in the general area where the Amphitheatre Stage, Pavilion, and Rest Room Facility footprints are proposed. Shallow spread or isolated footings with at least 3 feet of cover can be used to support the wall and column loadings.

For the foundation subgrade preparations, excavate to the subgrade elevation and compact to a standard relative compaction (ASTM D698) of at least 98 percent. The subgrade soils will likely be too coarse for a relevant Proctor moisture/density curve. If the Proctor's 98 percent relative compaction cannot be met, LSM recommends establishing the maximum dry density in the field. This can be done by making repeated passes with a trench compactor and measuring the dry density values until that number no longer increases. LSM recommends using a trench roller compactor having an operating weight of at least 3,000 pounds and a centrifugal force of at least 15,000 pounds to establish in field's maximum dry density. A leveling course of minus 3/4-inch rock or road base may be necessary to provide an even surface for the concrete footings. Provided the granular subgrade soils are prepared as specified, LSM recommends using an allowable soil bearing capacity of 4,000 pounds per square foot for the design of foundation footings that have at least 3 feet of cover. Use a coefficient of friction, μ , of 0.45 for sliding resistance design across the granular subgrade.

The poorly graded gravel with sand (GP) soils can be as foundation wall backfill, provided the 3-inch plus particles are removed, or are at least 1 foot away from the concrete walls. With the GP soils as compacted backfill, LSM recommends using an active equivalent fluid unit weight, γ_f , of 32.1 pounds per cubic foot (pcf) for designing walls that are allowed to rotate, such as retaining walls. LSM recommends using an at-rest equivalent fluid unit weight (γ_r) of 51.9 pounds per cubic foot (pcf) for designing walls that are not allowed to rotate, such as foundation walls. Compacting the GP material as backfill will offer an internal angle of friction (ϕ) of at least 38°, and a moist unit weight (γ_m) of at least 135 pcf. With a level backfill, the following equations can be used to obtain a resultant lateral force (pounds per lineal foot) acting at the lower one-third of the wall heights (H in feet):

Active Pressure, P_a :	$16.1 \times H^2$
Passive Pressure, P_p :	$283.8 \times H^2$
At-rest Pressure, P_0 :	$25.9 \times H^2$
Seismic Pressure, P_E :	$12.1 \times H^2$
Seismic Active Pressure, $P_{(E+a)}$:	$28.2 \times H^2$

LSM recommends walls associated with the foundation footings be cast-in-place reinforced concrete. Rigid insulation such as Styrofoam Brand SM is suggested for use along the exterior sides of the buried perimeter walls. In addition to providing insulation benefits, the rigid board will offer some cushion from the granular backfill soils during the backfilling operations.



For the slabs-on-grade associated with each of these structures, remove the thin layer of topsoil and excavate to the slabs' subgrade elevation. Compact the subgrade to a standard relative compaction of at least 95 percent. A leveling course of minus 3/4-inch rock or road base may be necessary.

If the slabs' subgrades are located above the existing grade, LSM recommends using a structural backfill meeting the gradation in Table 1:

TABLE 1: Structural Backfill / Crushed Base Course

Sieve Size	Percent Passing
1"	100
3/4"	80 - 100
1/2"	68 - 91
No. 4	46 - 70
No. 8	34 - 54
No. 40	13 - 35
No. 200	3 - 12

$0 \leq \text{P.I.} \leq 6$

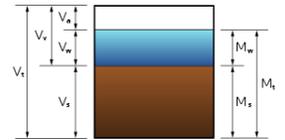
LSM recommends all compaction be completed on unfrozen soils and that the Contractor have an approved plan to protect compacted soils during construction from freezing prior to placing subsequent lifts.

Include isolation joint design across the slabs-on-grade at all column locations. Space the control joints that are saw cut from 24 to 36 times the thickness of the slab in each direction. For a 6-inch thick slab, the control joints would be spaced from 12 to 18 feet apart. Cut the joints with a conventional saw within 4 to 12 hours after the concrete is finished, or with a dry-cut early entry saw within 1 to 4 hours after the concrete is finished. Extend the saw cuts to one-quarter the thickness of the slab. LSM recommends terminating reinforcing bars within 2 inches of both sides of control joints to limit the transfer of shrinkage and contraction restraints. If fiber reinforcing is used, increase the saw cuts to one-third the thickness of the slab. If added correctly, fiber reinforcement can limit the growth of shrinkage cracking. LSM yields to the structural engineer for the joint designs.

Provided the subgrades for the slabs-on-grade are constructed as specified, a modulus of subgrade reaction equal to 300 pounds per square inch per inch of deflection (pci) can be used for the design of the slabs and their steel reinforcement. Use a coefficient of friction, μ , of 0.45 for sliding resistance design across the prepared subgrade.

3.2 Amphitheater Seating

TP-02 represents the soils that would be encountered for constructing the amphitheater seating. LSM assumes the slope will be benched to provide the seating. At this time, LSM assumes there will be retaining walls at the back of the seating area and the existing slope may be graded to a flatter slope and grassed. The soils encountered in the slope are markedly different than those encountered in the Park's open space. For retaining wall design parameters LSM recommends



the following equations can be used to obtain a resultant lateral force (pounds per lineal foot) acting at the lower one-third of the wall heights (H in feet):

Active Pressure, P_a :	$22.7 \times H^2$
Passive Pressure, P_p :	$109.9 \times H^2$
At-rest Pressure, P_0 :	$31.3 \times H^2$
Seismic Pressure, P_E :	$9.0 \times H^2$
Seismic Active Pressure, $P_{(E+a)}$:	$31.7 \times H^2$

If retaining walls are used for the amphitheater seating, LSM suggests using rock-filled gabion baskets as opposed to cast-in-place concrete or segmented block walls. The gabion baskets are a flexible wall system and are durable. The baskets can use native rock and are generally more economical than the cast-in-place or the precast concrete walls.

3.3 Parking Areas

3.3.1 Gravel-Surfaced Parking

TP-01 represents the proposed gravel-surfaced parking area. The underlying poorly graded gravel with silt and sand (GP-GM) soils will provide a strong subgrade on which to construct the gravel-surfaced parking area. LSM recommends the following typical section:

Gravel Surfacing:	3 inches
Crushed Base Course:	6 inches
Subgrade:	Scarified

Remove the thin layer of topsoil with vegetation and grade down to the subgrade elevation. Scarify the subgrade surface to a depth of 6 inches and cure with water to bring the subgrade's moisture content to within 2 percent of its optimum moisture content. Compact the subgrade to a standard relative compaction of at least 95 percent. It is likely that the subgrade materials will be too coarse to have a relevant Proctor moisture/density curve. If the Proctor's 95 percent relative compaction cannot be met, LSM recommends establishing the maximum dry density in the field. This can be done by making repeated passes with a roller compactor and measuring the dry density values until that number no longer increases. LSM recommends using a vibratory roller compactor having an operating weight of at least 20,000 pounds and a centrifugal force of at least 50,000 pounds to establish in field's maximum dry density.

Provide a crushed gravel base course meeting the gradation in Table 1 and having a plasticity index between 0 and 6. Compact the crushed gravel base course to a standard relative compaction of at least 95 percent.

Provide a gravel surfacing meeting the gradation in Table 2 and having a plasticity index between 4 and 12:

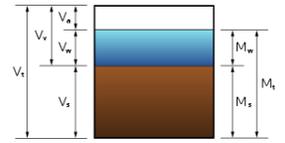


TABLE 2: Gravel Surfacing

Sieve Size	Percent Passing
3/4"	100
No. 4	50 - 78
No. 8	37 - 67
No. 40	4 - 15
No. 200	4 - 12

4 ≤ P.I. ≤ 12

Compact the gravel surfacing to a standard relative compaction of at least 95 percent and to within 2 percent of its optimum moisture content.

3.3.2 Asphalt-Paved Parking

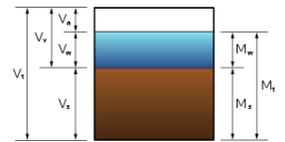
TP-04 represents the proposed asphalt-paved parking area. The underlying poorly graded gravel with sand (GP) soils will also provide a strong subgrade on which to construct the asphalt-surfaced parking area. LSM recommends the following typical section:

- Plant Mix Asphalt: 2 inches
- Crushed Base Course: 6 inches
- Subgrade: Scarified

Remove the thin layer of topsoil with vegetation and grade down to the subgrade elevation. Scarify the subgrade surface to a depth of 6 inches and cure with water to bring the subgrade’s moisture content to within 2 percent of its optimum moisture content. Compact the subgrade to a standard relative compaction of at least 95 percent. As for the gravel-surfaced parking area, it is likely that the subgrade materials will be too coarse to have a relevant Proctor moisture/density curve. If the Proctor’s 95 percent relative compaction cannot be met, LSM recommends establishing the maximum dry density in the field. This can be done by making repeated passes with a roller compactor and measuring the dry density values until that number no longer increases. LSM recommends using a vibratory roller compactor having an operating weight of at least 20,000 pounds and a centrifugal force of at least 50,000 pounds to establish in field’s maximum dry density.

Provide a crushed gravel base course meeting the gradation in Table 1 and having a plasticity index between 0 and 6. Compact the crushed gravel base course to a standard relative compaction of at least 95 percent.

LSM recommends using a commercial performance graded PG 58-28 binder for the asphalt concrete and the 3/4-inch minus plant mix surfacing aggregate meeting the Montana Public Work’s gradation presented in Table 3. The gradation bands in Table 3 represent the job mix target limits, which determine the suitability of aggregate. Provide the final job mix target gradation within the specified bands and uniformly graded from coarse to fine, not to vary from the low limit on one sieve to the high limit on the adjacent sieve, or vice-versa. For example, using the 3/8" and No. 4 sieves, a gradation of 75 percent and 48 percent passing their respective sieves is acceptable, 75 percent and 65 percent passing their respective sieves is not.

**TABLE 3: Plant Mix Surfacing Gradation**

Sieve Size	% Passing Job Mix Target Bands	Job Mix Tolerances
3/4"	100	-
1/2"	83 - 93	+/- 7
3/8"	73 - 87	+/- 7
No. 4	47 - 63	+/- 6
No. 10	32 - 43	+/- 6
No. 40	15 - 25	+/- 5
No. 200	5 - 7	+/- 2

The job mix formula establishes target values. During mix production, the gradations are to fall within the job mix limits presented in Table 3, i.e. if a QA job mix target of 6 has been selected for the No. 200 sieve and since the tolerance is +/-2, the job mix gradation for production would be 4 - 8.

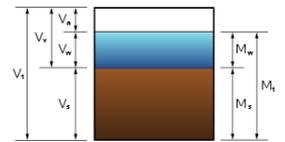
3.4 Exterior Flatwork

Exterior flatwork slabs such as pads and sidewalks are not anticipated to be supporting any loads other than the traffic intended for their use. At a minimum, LSM recommends the exterior flatwork bear on at least 4 inches of a compacted granular base course meeting the gradation in Table 1. Prior to placing the granular base course, compact the native subgrade to a standard relative compaction of at least 95 percent. Place and compact the granular base course to a relative compaction of at least 95 percent.

LSM suggests sidewalk slabs be at least 4 inches in thickness. Where sidewalks are across driveway aprons, LSM recommends the slab thickness be at least 6 inches. Space the contraction joints a maximum of 8 feet apart and provide a maximum width of 1/4-inch, cut at least one-quarter of the depth of the concrete. Install expansion joints between slabs no more than 40 feet apart. At these locations, provide a minimum joint width of 3/4-inch. Fill all expansion joints with a field-molded sealant to prevent the infiltration of water into the underlying soils. LSM suggests including fiber mesh with any tensile reinforcement to help prevent widening or horizontal separation of concrete cracks that may form.

3.5 Fresh Concrete

LSM recommends Type I/II cement for the footings, foundation walls, slabs-on-grade, and exterior flatwork. If fiber reinforced concrete is used, give consideration to providing a slump value associated with the fibers. LSM suggests a concrete mix design have a 4-inch maximum slump before any high range water reducer or plasticizer admixture is added or up to 8 inches after it is added. The air content range should range from 5 to 8.5 percent for footings, foundation walls, and exterior flatwork. The inclusion of entrained air in the footings is a safeguard against concrete being placed and exposed during cold temperatures and if the frost depth extends below the footing level. If the slab-on-grade will be freshly cast during cold temperatures, protect the fresh concrete from freezing. Do not cast fresh concrete on frozen



ground. LSM recommends the Contractor provide an approved plan for protecting concrete being placed during cold weather.

LSM yields to the structural engineer in each of the concrete mix designs for footings, foundation walls, slabs-on-grade, and exterior flatwork.

3.6 Underground Utilities

For utility trench excavations, the trench materials are expected to meet OSHA's requirements for a Type C soil. The steepest unsupported slope within a Type C soil trench is 1.5H:1V.

Use bedding soils that are minus 3/4-inch granular materials and are non-corrosive. A non-corrosive soil has a resistivity value greater than 3,000 ohm-centimeters. LSM recommends extending the bedding soil from the bottom of the utility trench to 6 inches above the top of the utility conduits. The native GP soils can be re-used as trench backfill over the bedding.

Soil compaction in utility trenches deeper than 5 feet should be performed using a remote trench compactor and observed by an inspector. When the backfill has been brought back to within 5 feet of the surface, perform compaction testing. Compact the GP utility trench backfill soils to a standard relative compaction of at least 95 percent at a moisture content within 2 percent of its optimum moisture content. Utility line locations tend to expose themselves after settling and shows a depression. Proper compaction of the utility trench soils will lessen the amount of surface depression.

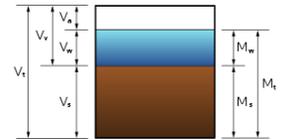
3.7 Groundwater Table and Surface Water Infiltration

Three water well logs from near Ainsworth Park were reviewed. The groundwater table depth was measured at 10, 36, and 37 feet. The groundwater table was not encountered during our subsurface investigation and is not expected to be construction concern. The moisture content did increase with depth in TP-02 in the silty soils and may indicate the potential for seepage. Given the time of year for the subsurface investigation the moisture conditions of the soils were primarily described as 'damp' or 'moist'.

For stormwater drainage design, the subgrade soils can be considered to have a rapid infiltration rate. For design purposes, LSM recommends using a design infiltration rate of 10 inches per hour, which includes a safety factor of 2.0.

3.8 Seismic Considerations

The Thompson Falls area is within the Northern Rocky Mountain seismotectonic province. LSM recommends using a seismic site class 'C', "Stiff Soil" for seismic design. Within the 2012/2015 International Building Code, which uses the 2008 USGS hazard data, LSM recommends the maximum credible spectral response accelerations at short 0.2-second periods, S_{MS} , and at 1-second periods, S_{M1} , to determine the seismic design base shear. A risk category of I, II, III was assigned. The spectral response acceleration parameters are presented in Table 4.



The seismic backfill pressures against the buried portion of the foundation walls can be determined by adding a seismic event component, P_E , based on Seed and Whitman (1970) to the coefficient of active pressure P_a . The P_E and P_a values were presented in Sections 3.1 and 3.2 for the building sites and for the amphitheater seating. A factor of safety of 1.1 can be used for earthquake design lateral earth pressures.

Table 4: Seismic Coefficients

IBC 2012/2015, Earthquake Loads	
Site Class Definition	C
Mapped Spectral Response Acceleration Parameter, S_S for 0.2 second	0.487g
Mapped Spectral Response Acceleration Parameter, S_1 for 1.0 second	0.145g
Adjusted Maximum Considered Earthquake Spectral Response Acceleration Parameter, S_{MS}	0.585g
Adjusted Maximum Considered Earthquake Spectral Response Acceleration Parameter, S_{M1}	0.239g
Design Spectral Response Acceleration Parameter, S_{DS}	0.390g
Design Spectral Response Acceleration Parameter, S_{D1}	0.160g

Due to the coarseness of the foundation soils beneath the building sites, and the fine-grained materials beneath the amphitheater seating area, liquefaction during a seismic event is considered to be low.

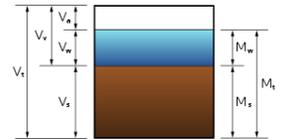
3.9 Shrink/Swell Characteristics

In general, the volume change potential of the subgrade soils during changes in moisture contents will be low for the building site areas. The potential increases in the amphitheater seating area due to the presence of silt and clay. The testing results and LSM’s experience with the varved silt and clay soils are compared against information provided by the U.S. Department of Interior (1998) and by Robert Holtz (1959) in Table 5.

Table 5: Expansion Potential from Classification Test Data

Degree of Expansion	Probable Expansion as a % of Total Volume Change (Dry to Saturated Condition under a 1 psi Surcharge)	Plasticity Index (%)	Shrinkage Limit (%)	Colloidal Content (%)
Very High	>30	>35	<11	>28
High	20 – 30	25 – 41	7 – 12	20 – 31
Medium	10 – 20	15 – 28	10 – 16	13 – 23
Low	<10	<18	>15	<15

The measured plasticity index 10 percent, indicates a low degree of expansion. The shrinkage limit of 22 indicates a low degree of expansion. LSM has conducted several hydrometer tests on the Glacial Lake Missoula varved silt and clay soils and the colloidal content is typically above 25 percent, which indicates the degree of expansion can be high to very high. Proper drainage design, during and after construction, must include surface drainage and foundation drain tiles.



3.10 Fresh Concrete and Compaction Testing Frequency

LSM recommends a testing frequency presented in Table 6 for the foundation, slabs-on-grade, and parking area and driveway subgrades, wall backfill, utility trench backfill, and for fresh concrete sampling and testing.

TABLE 6: Testing Frequency

Compaction Testing	
Beneath Column Footings	1 Test per Footing
Beneath Wall Footings	1 Test per 50 Lineal Feet of Wall
Foundation Wall/Column Backfill	1 Test per 50 Lineal Feet of Wall per Lift
Slabs-on-Grade Subgrade	1 Test per 1,000 Square Feet
Exterior Flatwork Subgrade	1 Test per 1,000 Square Feet
Parking Area Subgrade and Aggregates	1 Test per 2,000 Square Feet
Utility Trench Backfill	1 Test per 100 Lineal Feet per Lift
Concrete Testing	
Structural Concrete ¹	1 Test per 50 Cubic Yards per Day
Non-Structural Concrete	1 Test per Day

¹ Structural concrete includes all footings, foundation walls, slabs, and other load bearing elements.

4 BASIS OF RECOMMENDATIONS

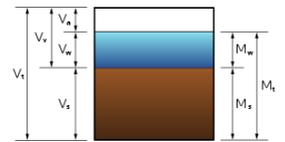
The analyses and recommendations submitted in this report are based upon the subsurface investigation. Often, variations occur within the subgrade, the nature and extent of which do not become evident until additional exploration or construction is conducted.

4.1 Use of Report

This report is for the exclusive use of the City of Thompson Falls and their design team. In the absence of LSM’s written approval, LSM makes no representation and assumes no responsibility to other parties outside this design team regarding this report. The data, analyses, and recommendations may not be appropriate for other structures or purposes. Parties contemplating structures or purposes other than what this report was written are directed to contact LSM.

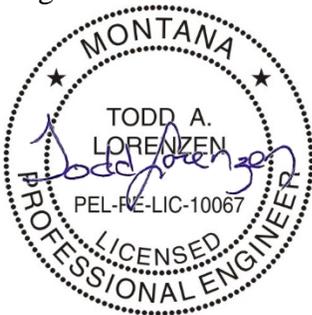
4.2 Level of Care

Services performed by LSM’s personnel for this project have been conducted with the level of care and skill ordinarily exercised by members of the profession currently practicing in this area under similar budget and time restraints. No warranty, expressed or implied, is made.



Professional Certification

I hereby certify that this report was prepared by me and that I am a duly Licensed Professional Engineer under the laws of the State of Montana.



December 20, 2018

: amended to include asphalt-paved typical section

Todd Lorenzen, P.E.
Geotechnical Engineer

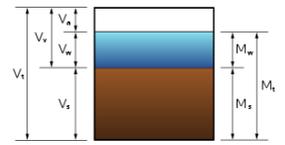
Custom Soil Resource Report
Soil Map



Figure 1: NRCS Soil Survey Map



Figure 2: Test Pit Locations



APPENDIX A. LOGS OF TEST PITS AND TESTING RESULTS

GENERAL NOTES

DRILLING & SAMPLING SYMBOLS:

SS: 	Split Spoon - 1-3/8" I.D., 2" O.D., unless otherwise noted	CA: 	Casing Advancer
ST: 	Thin-Walled Tube - 2" O.D., unless otherwise noted	DA: 	Drill Auger
CB: 	California Sampler - 2" I.D., 2.5" O.D., unless otherwise noted	HA: 	Hand Auger
DB: 	Diamond Bit Coring - 4", NX, unless otherwise noted	RB: 	Rock Bit
BS: 	Bulk Sample or Auger Sample	GS: 	Grab Sample

The number of blows required to advance a standard 2-inch O.D. split- spoon sampler (SS) the last 12 inches of the total 18-inch penetration with a 140-pound hammer falling 30 inches is considered the "Standard Penetration" or "N-value". The field blow counts are reported for each 6-inch interval, or portion thereof if greater than 50 blows are required to advance the full 6-inch interval. For over-sized split spoon samplers, non-standard hammers, or non-standard drop heights, the field penetration values are reported on the bore log. The values must be corrected to obtain the N-value.

WL: Water Level	WS: While Sampling	NE: Not Encountered
WCI: Wet Cave-In	WD:  While Drilling	
DCI: Dry Cave-In	BCR: Before Casing Removal	
AB: After Boring	ACR:  After Casing Removal	

Groundwater table levels indicated on the boring logs are the levels measured in the borings at the times indicated. Groundwater table levels at other times and other locations across the site could vary. In pervious soils, the indicated levels may reflect the location of groundwater. In low permeability soils, the accurate determination of groundwater table levels may not be possible with only short-term observations.

DESCRIPTIVE SOIL CLASSIFICATION: Soil classification is based on the Unified Soil Classification System. Coarse Grained Soils have more than 50% of their dry weight retained on a #200 sieve; their principal descriptors are: gravel or sand. Cobbles and boulders are not part of the USCS system but are included, when present, as percentages. Fine Grained Soils have less than 50% of their dry weight retained on a #200 sieve; depending on their plasticity, they are described as clay or silt. Major constituents may be added as modifiers and minor constituents may be added according to the relative proportions based on grain size. In addition to gradation, coarse-grained soils are defined on the basis of their in-place relative density and fine-grained soils are defined on the basis of their consistency.

CONSISTENCY OF FINE-GRAINED SOILS

<u>Unconfined Compressive Strength, Qu, psf</u>	<u>Standard Penetration or N-value (SS) Blows/Ft.</u>	<u>Consistency</u>
< 500	0 - 1	Very Soft
500 - 1,000	2 - 4	Soft
1,001 - 2,000	5 - 8	Medium Stiff
2,001 - 4,000	9 - 15	Stiff
4,001 - 8,000	16 - 30	Very Stiff
8,000 +	30 +	Hard

RELATIVE DENSITY OF COARSE-GRAINED SOILS

<u>Standard Penetration or N-value (SS) Blows/Ft.</u>	<u>California Barrel (CB) Blows/Ft.</u>	<u>Relative Density</u>
0 - 4	0 - 6	Very Loose
5 - 10	7 - 18	Loose
11 - 30	19 - 58	Medium Dense
31 - 50	59 - 98	Dense
50 +	99 +	Very Dense

RELATIVE PROPORTIONS OF SAND AND GRAVEL

<u>Descriptive Term(s) of Other Constituents</u>	<u>Percent of Dry Weight</u>
Trace	< 15
With	15 - 30
Modifier	> 30

USCS* GRAIN SIZE TERMINOLOGY

<u>Major Component of Sample</u>	<u>Particle Size</u>
Boulders	Over 12 in. (300mm)
Cobbles	12 in. to 3 in. (300mm to 75 mm)
Gravel	3 in. to #4 sieve (75mm to 4.75 mm)
Sand	#4 to #200 sieve (4.75mm to 0.075mm)
Silt or Clay	Passing #200 Sieve (0.075mm)

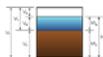
*For AASHTO grain size the #4 sieve is replaced with the #10 sieve

RELATIVE PROPORTIONS OF FINES

<u>Descriptive Term(s) of Other Constituents</u>	<u>Percent of Dry Weight</u>
Trace	< 5
With	5 - 12
Modifiers	> 12

PLASTICITY DESCRIPTION

<u>Term</u>	<u>Plasticity Index</u>
Non-Plastic	0
Slightly	1 - 5
Low	6 - 10
Medium	11 - 20
Highly	21 - 40
Very Highly	> 40



UNIFIED SOIL CLASSIFICATION SYSTEM

Criteria for Assigning Group Symbols and Group Names Using Laboratory Tests ^A

				Soil Classification	
				Group Symbol	Group Name ^B
Coarse Grained Soils More than 50% retained on No. 200 sieve	Gravels More than 50% of coarse fraction retained on No. 4 sieve	Clean Gravels	$Cu \geq 4$ and $1 \leq Cc \leq 3$	GW	Well-graded Gravel ^F
		Less than 5% fines	$Cu < \text{and/or } 1 > Cc > 3$	GP	Poorly graded gravel ^F
		Gravels with Fines More than 12% fines	Fines classify as ML or MH Fines classify as CL or CH	GM GC	Silty Gravel ^{F,G,H} Clayey Gravel ^{F,G,H}
	Sands 50% or more of coarse fraction passes No. 4 sieve	Clean Sands	$Cu \geq 6$ and $1 \leq Cc \leq 3$	SW	Well-graded Sand ^I
		Less than 5% fines	$Cu < 6$ and/or $1 > Cc > 3$	SP	Poorly graded Sand ^I
		Sands with Fines More than 12% fines	Fines classify as ML or MH Fines classify as CL or CH	SM SC	Silty Sand ^{G,H,I} Clayey Sand ^{G,H,I}
Fine-Grained Soils 50% or more passes the No. 200 sieve	Silts and Clays Liquid limit less than 50	inorganic	$PI > 7$ and plots on or above "A" line $PI < 4$ or plots below "A" line	CL ML	Lean Clay ^{K,L,M} Silt ^{K,L,M}
		organic	Liquid limit - oven dried < 0.75 Liquid limit - not dried	OL	Organic Clay ^{K,L,M,N} Organic Silt ^{K,L,M,Q}
	Silts and Clays Liquid Limit 50 or more	inorganic	PI plots on or above "A" Line PI plots below "A" line	CH MH	Fat Clay ^{K,L,M} Elastic Silt ^{K,L,M}
		organic	Liquid limit - oven dried < 0.75 Liquid limit - not dried	OH	Organic Clay ^{K,L,M,P} Organic Silt ^{K,L,M,Q}
		Highly organic soils Primarily organic matter, dark in color, and organic odor		PT	Peat

^A Based on the material passing the 3-in. (75-mm) sieve

^B If field sample contains cobbles and/or boulders, add "with cobbles or boulders, or both" as necessary to group name.

^C Gravels with 5 to 12% fines require dual symbols: GW-GM well-graded gravel with silt, GW-GC well-graded gravel with clay, GP-GM poorly graded gravel with silt. GP-GC poorly graded gravel with clay.

^D Sands with 5 to 12% fines require dual symbols: SW-SM well-graded sand with silt, SW-SC well-graded sand with clay, SP-SM poorly graded sand with silt, SP-SC poorly graded sand with clay.

$$E \quad Cu = D_{60} / D_{10} \quad Cc = \frac{(D_{30})^2}{D_{10} \times D_{60}}$$

^F If soil contains $\geq 15\%$ sand, add "with sand" to group name.

^G If fines classify as CL-ML, use dual symbol GC-GM, or SC-SM.

^H If fines are organic, add "with organic fines" to group name.

^I If soil contains $\geq 15\%$ gravel, add "with gravel" to group name.

^J If Atterberg limits plot in shaded area, soil is a CL-ML, silty clay.

^K If soil contains 15 to 29% plus No. 200, add "with sand" or "with gravel," whichever is predominant.

^L If soil contains $\geq 30\%$ plus No. 200, predominantly sand, add "sandy" to group name.

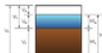
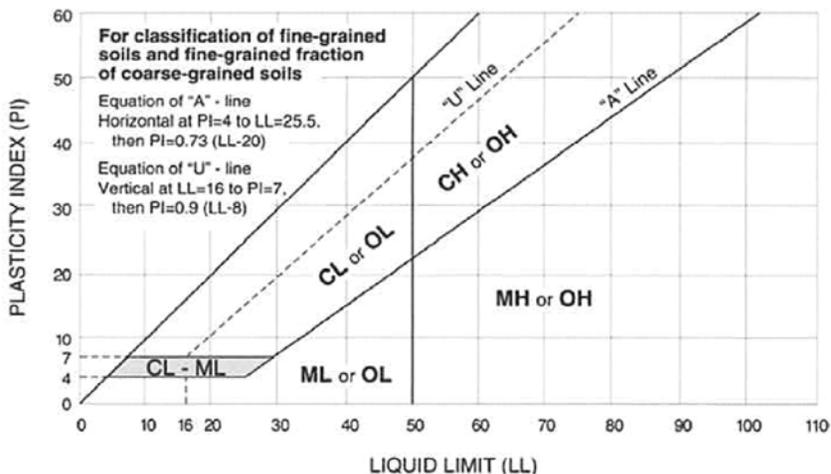
^M If soil contains $\geq 30\%$ plus No. 200, predominantly gravel, add "gravelly" to group name.

^N $PI \geq 4$ and plots on or above "A" line.

^O $PI < 4$ or plots below "A" line.

^P PI plots on or above "A" line.

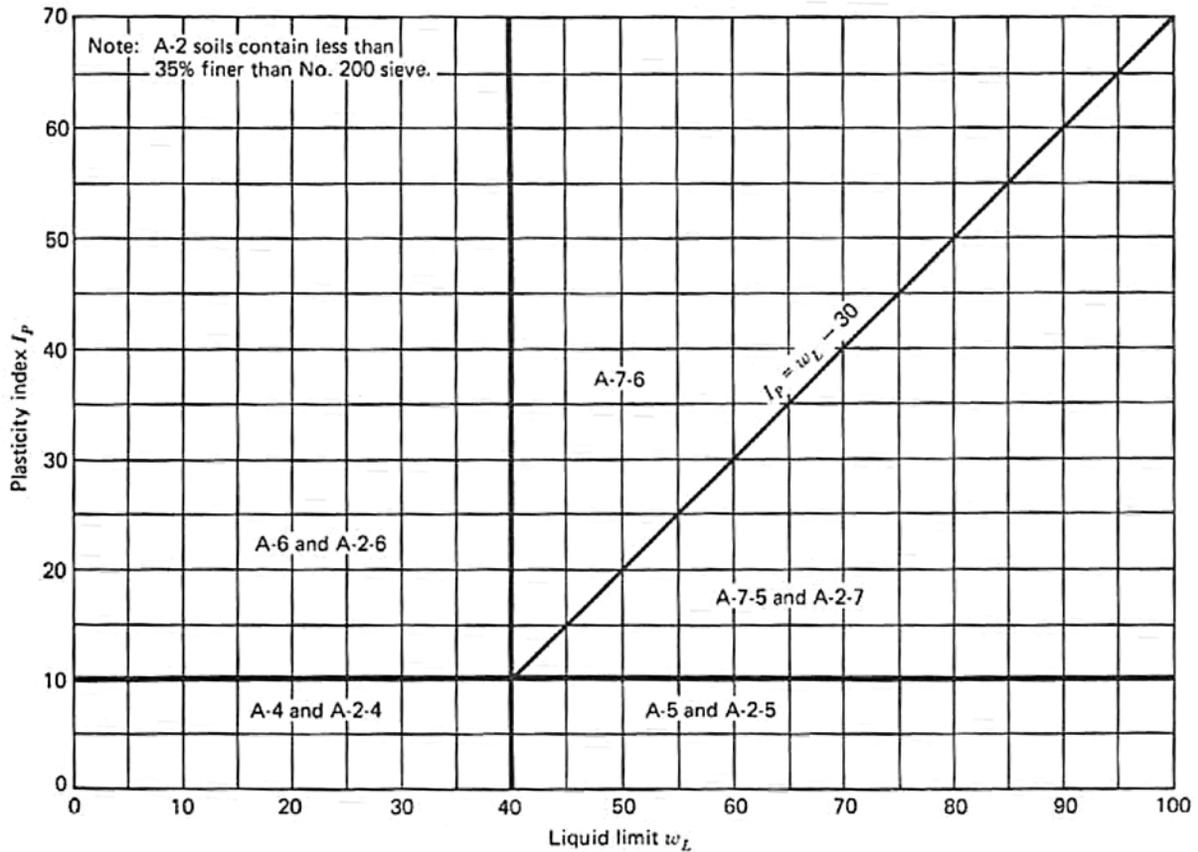
^Q PI plots below "A" line.



AASHTO SOIL CLASSIFICATION SYSTEM

General classification	Granular materials (35 percent or less of total sample passing No. 200)							Silt-clay material (More than 35 percent of total sample passing No. 200)			
	A-1		A-3	A-2				A-4	A-5	A-6	A-7 ¹
Group classification	A-1-a	A-1-b		A-2-4	A-2-5	A-2-6	A-2-7				A-7-5 A-7-6
Sieve analysis percent passing No. 10 No. 40 No. 200	50 max 30 max 15 max	50 max 25 max	51 max 10 max	35 max	35 max	35 max	35 max	36 min	36 min	36 min	36 min
Characteristics of fraction passing No. 40 Liquid limit, w _L Plastic Index, I _p	6 max		NP	40 max 10 max	41 min 10 max	40 max 11 min	41 min 11 min	40 max 10 max	41 min 10 max	40 max 11 min	41 min 11 min
Significant constituent materials	gravel and sand		fine sand	silty and clayey gravel and sand				silty soils		clayey soils	

¹ Plasticity index of A-7-5 subgroup is equal to or less than LL minus 30. Plasticity index of A-7-6 subgroup is greater than LL minus 30.



GENERAL BH / TP / WELL - GINT STD US LAB.GDT - 12/10/18 10:46 - C:\USERS\TODD LORENZEN\DOCUMENTS\LORENZEN\SOIL MECHANICS\WGM GROUP\THOMPSON FALLS PAVILLION\5.0 DELIVERABLES\THOMPSON FALLS AINSWORTH PARK.GPJ

Lorenzen Soil Mechanics, Inc.
 2720 Palmer Street, Unit C
 Missoula, MT 59808
 Telephone: 406-830-0633

TEST PIT NUMBER TP-01

CLIENT WGM Group **PROJECT NAME** Ainsworth Park Improvements
PROJECT NUMBER CF2018 **PROJECT LOCATION** Thompson Falls
DATE STARTED 11/29/18 **COMPLETED** 11/29/18 **GROUND ELEVATION** _____ **TEST PIT SIZE** 36 inches
EXCAVATION CONTRACTOR Owner **GROUND WATER LEVELS:**
EXCAVATION METHOD 420 DCat Backhoe/Loader **AT TIME OF EXCAVATION** --- GW table was not encountered.
LOGGED BY Lorenzen **CHECKED BY** Lorenzen **AT END OF EXCAVATION** --- GW table was not encountered.
NOTES N47° 35' 46.5"; W115° 21' 15.3" **AFTER EXCAVATION** ---

DEPTH (ft)	SAMPLE TYPE NUMBER	TESTS	U.S.C.S.	GRAPHIC LOG	MATERIAL DESCRIPTION
0.0					
0.3			SM		(SM) TOPSOIL, Silty Sand with Gravel, Organics; moist; black (10YR 2/1); no reaction to 10% HCl solution. Fines have low plasticity.
2.5	GB	MC = 12%	GP-GM		(GP-GM) Poorly Graded GRAVEL with Silt and Sand, frequent Cobbles; subrounded; damp to moist; dark brown (10YR 3/3) matrix; weak reaction to 10% HCl solution. Fines are medium plastic. Army Corps of Engineers Cone Penetrometer pushed 2 inches under a 320 psi loading at the 2.5-foot depth.

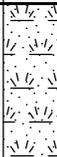
Bottom of test pit at 2.5 feet.

GENERAL BH / TP / WELL - GINT STD US LAB.GDT - 12/10/18 10:46 - C:\USERS\TODD LORENZEN\DOCUMENTS\LORENZEN\SOIL MECHANICS\WGM GROUP\THOMPSON FALLS PAVILLION\5.0 DELIVERABLES\THOMPSON FALLS AINSWORTH PARK.GPJ

Lorenzen Soil Mechanics, Inc.
 2720 Palmer Street, Unit C
 Missoula, MT 59808
 Telephone: 406-830-0633

TEST PIT NUMBER TP-02

CLIENT WGM Group **PROJECT NAME** Ainsworth Park Improvements
PROJECT NUMBER CF2018 **PROJECT LOCATION** Thompson Falls
DATE STARTED 11/29/18 **COMPLETED** 11/29/18 **GROUND ELEVATION** _____ **TEST PIT SIZE** 36 inches
EXCAVATION CONTRACTOR Owner **GROUND WATER LEVELS:**
EXCAVATION METHOD 420 DCat Backhoe/Loader **AT TIME OF EXCAVATION** --- GW table was not encountered.
LOGGED BY Lorenzen **CHECKED BY** Lorenzen **AT END OF EXCAVATION** --- GW table was not encountered.
NOTES N47° 35' 47.4"; W115° 21' 18.8" **AFTER EXCAVATION** ---

DEPTH (ft)	SAMPLE TYPE NUMBER	TESTS	U.S.C.S.	GRAPHIC LOG	MATERIAL DESCRIPTION
0.0					
			SM		(SM) TOPSOIL, Silty Sand with Gravel, Organics; moist; yellowish brown (10YR 5/6); no reaction to 10% HCl solution. Fines have low plasticity.
	GB	MC = 9%			
1.3			ML		(ML) SILT and CLAY, varved, some nodules; damp; very pale brown (10YR 7/3) and dark yellowish brown (10YR 4/6) varves; low to medium plastic; strong reaction to 10% HCl solution; medium dry strength.
2.5	GB	MC = 20%			
					Army Corps of Engineers Cone Penetrometer pushed 3 inches under a 320 psi loading at the 3-foot depth.
5.0			ML		
	GB	MC = 33% LL = 38 PL = 28	ML		(ML) SILT; moist; yellowish brown (10YR 5/4); no reaction to 10% HCl solution; low plasticity; medium to high dry strength. Shrinkage Limit = 22
6.5					
7.0					Bottom of test pit at 7.0 feet.

GENERAL BH / TP / WELL - GINT STD US LAB.GDT - 12/10/18 10:46 - C:\USERS\TODD LORENZEN\DOCUMENTS\LORENZEN\SOIL MECHANICS\WGM GROUP\THOMPSON FALLS PAVILLION\5.0 DELIVERABLES\THOMPSON FALLS AINSWORTH PARK.GPJ

Lorenzen Soil Mechanics, Inc.
 2720 Palmer Street, Unit C
 Missoula, MT 59808
 Telephone: 406-830-0633

TEST PIT NUMBER TP-03

CLIENT WGM Group **PROJECT NAME** Ainsworth Park Improvements
PROJECT NUMBER CF2018 **PROJECT LOCATION** Thompson Falls
DATE STARTED 11/29/18 **COMPLETED** 11/29/18 **GROUND ELEVATION** _____ **TEST PIT SIZE** 36 inches
EXCAVATION CONTRACTOR Owner **GROUND WATER LEVELS:**
EXCAVATION METHOD 420 DCat Backhoe/Loader **AT TIME OF EXCAVATION** --- GW table was not encountered.
LOGGED BY Lorenzen **CHECKED BY** Lorenzen **AT END OF EXCAVATION** --- GW table was not encountered.
NOTES N47° 35' 46.8"; W115° 21' 18.9" **AFTER EXCAVATION** ---

DEPTH (ft)	SAMPLE TYPE NUMBER	TESTS	U.S.C.S.	GRAPHIC LOG	MATERIAL DESCRIPTION
0.0			SM		(SM) TOPSOIL, Silty Sand with Gravel, Organics; moist; yellowish brown (10YR 5/6); no reaction to 10% HCl solution. Fines have low plasticity.
	GB	MC = 14%	GP-GM		(GP-GM) Poorly Graded GRAVEL with Silt and Sand, frequent Cobbles; rounded to subrounded; moist to damp; very dark brown (10YR 2/2) to light yellowish brown (10YR 6/4) matrices; medium to strong reaction to 10% HCl solution. Fines are medium plastic and decreased in content with depth.
2.5	GB	MC = 4%			Army Corps of Engineers Cone Penetrometer pushed 0.3 inches under a 320 psi loading at the 3-foot depth.

Bottom of test pit at 3.0 feet.

GENERAL BH / TP / WELL - GINT STD US LAB.GDT - 12/10/18 10:46 - C:\USERS\ITODD LORENZEN\DOCUMENTS\LORENZEN\SOIL MECHANICS\WGM GROUP\THOMPSON FALLS PAVILLION\5.0 DELIVERABLES\THOMPSON FALLS AINSWORTH PARK.GPJ

Lorenzen Soil Mechanics, Inc.
 2720 Palmer Street, Unit C
 Missoula, MT 59808
 Telephone: 406-830-0633

TEST PIT NUMBER TP-04

CLIENT <u>WGM Group</u>	PROJECT NAME <u>Ainsworth Park Improvements</u>
PROJECT NUMBER <u>CF2018</u>	PROJECT LOCATION <u>Thompson Falls</u>
DATE STARTED <u>11/29/18</u> COMPLETED <u>11/29/18</u>	GROUND ELEVATION _____ TEST PIT SIZE <u>36 inches</u>
EXCAVATION CONTRACTOR <u>Owner</u>	GROUND WATER LEVELS:
EXCAVATION METHOD <u>420 DCat Backhoe/Loader</u>	AT TIME OF EXCAVATION <u>--- GW table was not encountered.</u>
LOGGED BY <u>Lorenzen</u> CHECKED BY <u>Lorenzen</u>	AT END OF EXCAVATION <u>--- GW table was not encountered.</u>
NOTES <u>N47° 35' 43.8"; W115° 21' 16.5"</u>	AFTER EXCAVATION <u>---</u>

DEPTH (ft)	SAMPLE TYPE NUMBER	TESTS	U.S.C.S.	GRAPHIC LOG	MATERIAL DESCRIPTION
0.0					
	GB	MC = 16%	SM	0.8	(SM) TOPSOIL, Silty Sand with Gravel, Organics; moist; black (10YR 2/1); no reaction to 10% HCl solution. Fines have low plasticity.
2.5	GB	MC = 5%	GP	5.5	(GP) Poorly Graded GRAVEL with Sand, frequent Cobbles, occasional Boulder; rounded to subrounded; damp; dark grayish brown (10YR 4/3) matrix with white (10YR 8/1) pendant cement noted on some of the Gravel; medium to strong reaction to 10% HCl solution.
5.0	GB	MC = 3%			

Bottom of test pit at 5.5 feet.

USGS Design Maps Summary Report

User-Specified Input

Report Title Ainsworth Park
Mon December 10, 2018 21:09:31 UTC

Building Code Reference Document 2012/2015 International Building Code
(which utilizes USGS hazard data available in 2008)

Site Coordinates 47.5955°N, 115.35458°W

Site Soil Classification Site Class C – “Very Dense Soil and Soft Rock”

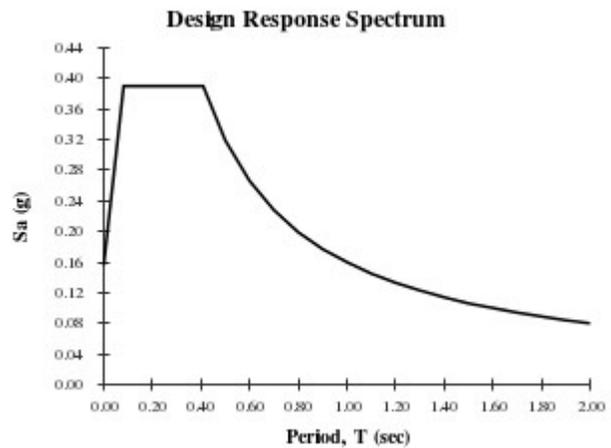
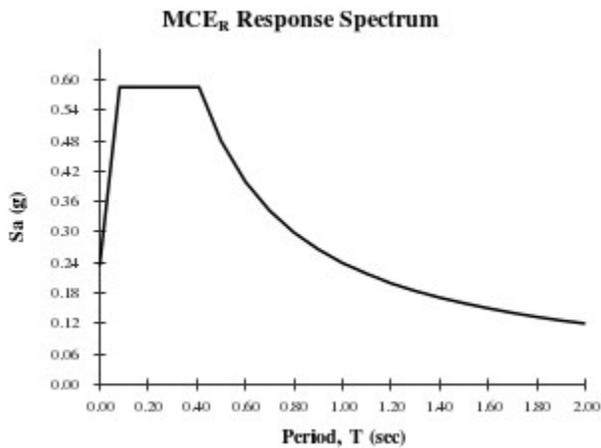
Risk Category I/II/III



USGS-Provided Output

$S_s = 0.487 \text{ g}$	$S_{MS} = 0.585 \text{ g}$	$S_{DS} = 0.390 \text{ g}$
$S_1 = 0.145 \text{ g}$	$S_{M1} = 0.239 \text{ g}$	$S_{D1} = 0.160 \text{ g}$

For information on how the S_s and S_1 values above have been calculated from probabilistic (risk-targeted) and deterministic ground motions in the direction of maximum horizontal response, please return to the application and select the “2009 NEHRP” building code reference document.



Design Maps Detailed Report

2012/2015 International Building Code (47.5955°N, 115.35458°W)

Site Class C – “Very Dense Soil and Soft Rock”, Risk Category I/II/III

Section 1613.3.1 — Mapped acceleration parameters

Note: Ground motion values provided below are for the direction of maximum horizontal spectral response acceleration. They have been converted from corresponding geometric mean ground motions computed by the USGS by applying factors of 1.1 (to obtain S_s) and 1.3 (to obtain S_1). Maps in the 2012/2015 International Building Code are provided for Site Class B. Adjustments for other Site Classes are made, as needed, in Section 1613.3.3.

From [Figure 1613.3.1\(1\)](#) ^[1]

$$S_s = 0.487 \text{ g}$$

From [Figure 1613.3.1\(2\)](#) ^[2]

$$S_1 = 0.145 \text{ g}$$

Section 1613.3.2 — Site class definitions

The authority having jurisdiction (not the USGS), site-specific geotechnical data, and/or the default has classified the site as Site Class C, based on the site soil properties in accordance with Section 1613.

2010 ASCE-7 Standard – Table 20.3-1
SITE CLASS DEFINITIONS

Site Class	\bar{v}_s	\bar{N} or \bar{N}_{ch}	\bar{s}_u
A. Hard Rock	>5,000 ft/s	N/A	N/A
B. Rock	2,500 to 5,000 ft/s	N/A	N/A
C. Very dense soil and soft rock	1,200 to 2,500 ft/s	>50	>2,000 psf
D. Stiff Soil	600 to 1,200 ft/s	15 to 50	1,000 to 2,000 psf
E. Soft clay soil	<600 ft/s	<15	<1,000 psf

Any profile with more than 10 ft of soil having the characteristics:

- Plasticity index $PI > 20$,
- Moisture content $w \geq 40\%$, and
- Undrained shear strength $\bar{s}_u < 500$ psf

F. Soils requiring site response analysis in accordance with Section 21.1

See Section 20.3.1

$$\text{For SI: } 1\text{ft/s} = 0.3048 \text{ m/s } 1\text{lb/ft}^2 = 0.0479 \text{ kN/m}^2$$

Section 1613.3.3 — Site coefficients and adjusted maximum considered earthquake spectral response acceleration parameters

TABLE 1613.3.3(1)
VALUES OF SITE COEFFICIENT F_a

Site Class	Mapped Spectral Response Acceleration at Short Period				
	$S_s \leq 0.25$	$S_s = 0.50$	$S_s = 0.75$	$S_s = 1.00$	$S_s \geq 1.25$
A	0.8	0.8	0.8	0.8	0.8
B	1.0	1.0	1.0	1.0	1.0
C	1.2	1.2	1.1	1.0	1.0
D	1.6	1.4	1.2	1.1	1.0
E	2.5	1.7	1.2	0.9	0.9
F	See Section 11.4.7 of ASCE 7				

Note: Use straight-line interpolation for intermediate values of S_s

For Site Class = C and $S_s = 0.487$ g, $F_a = 1.200$

TABLE 1613.3.3(2)
VALUES OF SITE COEFFICIENT F_v

Site Class	Mapped Spectral Response Acceleration at 1-s Period				
	$S_1 \leq 0.10$	$S_1 = 0.20$	$S_1 = 0.30$	$S_1 = 0.40$	$S_1 \geq 0.50$
A	0.8	0.8	0.8	0.8	0.8
B	1.0	1.0	1.0	1.0	1.0
C	1.7	1.6	1.5	1.4	1.3
D	2.4	2.0	1.8	1.6	1.5
E	3.5	3.2	2.8	2.4	2.4
F	See Section 11.4.7 of ASCE 7				

Note: Use straight-line interpolation for intermediate values of S_1

For Site Class = C and $S_1 = 0.145$ g, $F_v = 1.655$

Equation (16-37):

$$S_{MS} = F_a S_s = 1.200 \times 0.487 = 0.585 \text{ g}$$

Equation (16-38):

$$S_{M1} = F_v S_1 = 1.655 \times 0.145 = 0.239 \text{ g}$$

Section 1613.3.4 — Design spectral response acceleration parameters

Equation (16-39):

$$S_{DS} = \frac{2}{3} S_{MS} = \frac{2}{3} \times 0.585 = 0.390 \text{ g}$$

Equation (16-40):

$$S_{D1} = \frac{2}{3} S_{M1} = \frac{2}{3} \times 0.239 = 0.160 \text{ g}$$

Section 1613.3.5 — Determination of seismic design category

TABLE 1613.3.5(1)

SEISMIC DESIGN CATEGORY BASED ON SHORT-PERIOD (0.2 second) RESPONSE ACCELERATION

VALUE OF S_{DS}	RISK CATEGORY		
	I or II	III	IV
$S_{DS} < 0.167g$	A	A	A
$0.167g \leq S_{DS} < 0.33g$	B	B	C
$0.33g \leq S_{DS} < 0.50g$	C	C	D
$0.50g \leq S_{DS}$	D	D	D

For Risk Category = I and $S_{DS} = 0.390 g$, Seismic Design Category = C

TABLE 1613.3.5(2)

SEISMIC DESIGN CATEGORY BASED ON 1-SECOND PERIOD RESPONSE ACCELERATION

VALUE OF S_{D1}	RISK CATEGORY		
	I or II	III	IV
$S_{D1} < 0.067g$	A	A	A
$0.067g \leq S_{D1} < 0.133g$	B	B	C
$0.133g \leq S_{D1} < 0.20g$	C	C	D
$0.20g \leq S_{D1}$	D	D	D

For Risk Category = I and $S_{D1} = 0.160 g$, Seismic Design Category = C

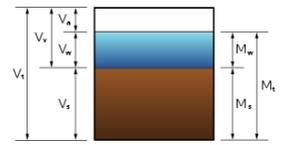
Note: When S_1 is greater than or equal to 0.75g, the Seismic Design Category is **E** for buildings in Risk Categories I, II, and III, and **F** for those in Risk Category IV, irrespective of the above.

Seismic Design Category \equiv "the more severe design category in accordance with Table 1613.3.5(1) or 1613.3.5(2)" = C

Note: See Section 1613.3.5.1 for alternative approaches to calculating Seismic Design Category.

References

1. Figure 1613.3.1(1): [https://earthquake.usgs.gov/hazards/designmaps/downloads/pdfs/IBC-2012-Fig1613p3p1\(1\).pdf](https://earthquake.usgs.gov/hazards/designmaps/downloads/pdfs/IBC-2012-Fig1613p3p1(1).pdf)
2. Figure 1613.3.1(2): [https://earthquake.usgs.gov/hazards/designmaps/downloads/pdfs/IBC-2012-Fig1613p3p1\(2\).pdf](https://earthquake.usgs.gov/hazards/designmaps/downloads/pdfs/IBC-2012-Fig1613p3p1(2).pdf)



APPENDIX B. PHOTOGRAPHS



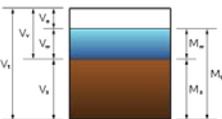
Description: TP-01 Location. View is to the north.



Description: TP-01 Location. View is to the east.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





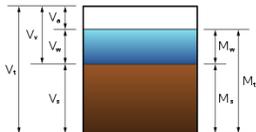
Description: TP-01 Location. View is to the northeast.



Description: TP-01 Excavated to 2.5 feet. Army Corps of Engineers Cone Penetrometer pushed to 2 inches under a 320 psi loading.

Lorenzen Soil Mechanics Inc.

Project: Ainsworth Park Pavilion and Amphitheater





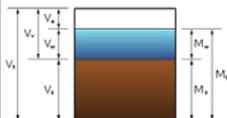
Description: TP-01 Jar sample from the 2.5-foot depth and a bulk sample from 0.5 to 2 feet.



Description: TP-01 Excavated to the 2.5-foot depth.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





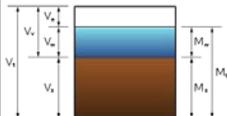
Description: TP-02 Location. View is to the north.



Description: TP-02 Location. View is to the west.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





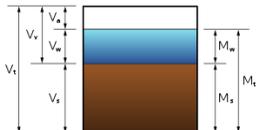
Description: TP-02 Cone Penetrometer pushed to 3 inches under a 320 psi loading.



Description: TP-02 Excavated to 7-foot depth.

Lorenzen Soil Mechanics Inc.

Project: Ainsworth Park Pavilion and Amphitheater





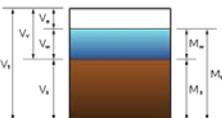
Description: TP-02 Location. View is upslope toward the north.



Description: TP-03 Location. View is to the west.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





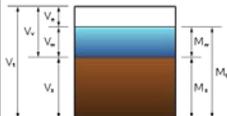
Description: TP-03 Location. View is to the east.



Description: TP-03 Location. View is to the south from above TP-02 location.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





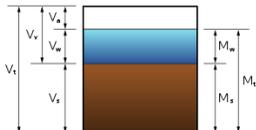
Description: TP-03 Cone Penetrometer pushed to 0.3 inches under a 320 psi loading.



Description: TP-03 Location. View is to the east. Irrigation service is in the foreground.

Lorenzen Soil Mechanics Inc.

Project: Ainsworth Park Pavilion and Amphitheater





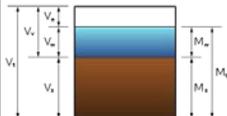
Description: TP-04 Location in background. View is to the southeast from TP-03 location.



Description: TP-04 Location. View is to the northeast.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





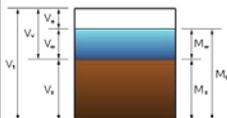
Description: TP-04 Location. View is to the south. Water utility trench depression is in the foreground.



Description: TP-04 Location. View is to the southwest. Water line trench depression is in the foreground.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





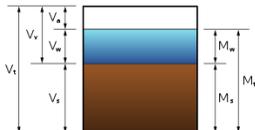
Description: TP-04 Cone Penetrometer pushed to 1 inch under a 320 psi loading.



Description: TP-04 Jar sample from 3-foot depth on the spoils pile.

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Project: Ainsworth Park Pavilion and Amphitheater





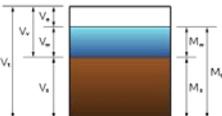
Description: TP-04 Jar sample from the 5.5-foot depth.



Description: TP-04 excavated to 5.5 feet depth.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





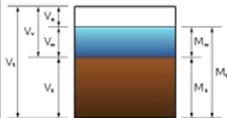
Description: TP-01 Moisture content sample prior to being placed in the drying oven.



Description: TP-01 Moisture content sample after being taken out of the drying oven.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





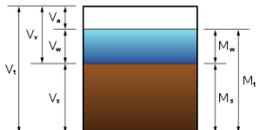
Description: TP-02 Moisture content sample prior to being placed in the drying oven.



Description: TP-02 Moisture content sample after being taken out of the drying oven.

Lorenzen Soil Mechanics Inc.

Project: Ainsworth Park Pavilion and Amphitheater





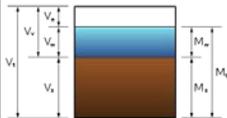
Description: TP-03 Moisture content sample prior to being placed in the drying oven.



Description: TP-03 Moisture content sample after being taken out of the drying oven.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater





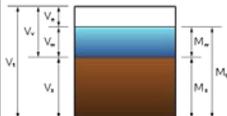
Description: TP-04 Moisture content sample prior to being placed in the drying oven.



Description: TP-04 Moisture content sample after being taken out of the drying oven.

Lorenzen Soil Mechanics, Inc.

Project: Ainsworth Park Pavilion and Amphitheater



CONSTRUCTION PLANS

*(SEE FULL PLAN SET
ACCOMPANYING THIS
CONSTRUCTION MANUAL)*