

CONTRACT DOCUMENTS And MATERIAL SPECIFICATIONS

for the Construction of

WATER SUPPLY PLANT #2

serving

THE CITY OF CARLS CORNER
Hill County, Texas

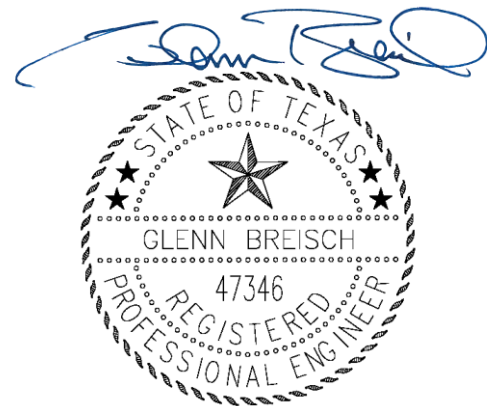
June 2026

prepared by



**WASTELINE
ENGINEERING, INC.**

208 South Front Street
Aledo, Texas 76008
(817) 441-1300 phone
(817) 441-1033 fax



June 8, 2026
WEI Job No. 21820

WATER SUPPLY PLANT #2
serving
The City of Carls Corner
Hill County, Texas

TABLE OF CONTENTS

PART A – GENERAL REQUIREMENTS

00405	Notice to Bidders
00406	Special Instructions to Bidders
00410	Bid Form
00600	Certificate of Insurance
00601	General Conditions
00610	Performance Bond
00611	Payment Bond
00612	Maintenance Bond
00613	Affidavit of Bills Paid
00800	Supplementary Conditions
01270	Measurement and Payment
01330	Submittal Procedures
01454	Testing Laboratory Services
01520	Temporary Erosion, Sediment and Water Pollution Control
01576	Waste Material Disposal
01600	Contract Closeout

PART B - MATERIAL and CONSTRUCTION SPECIFICATIONS

North Central Texas Council of Governments Standard Specifications
TCEQ Water Storage Tank General Construction Notes

PART C – SPECIAL SPECIFICATIONS

11500	General Requirements
11503	Painting
11554	Site Grading
11578	Chain Link Fencing
11803	Trench Excavation Safety
15210	Bolted Steel Ground Storage Tank
15305	Hydropneumatic Pressure Tank Accessories
16110	Electrical

PART D – GRANT DOCUMENTS for TxCDBG Contract #CDV23-0466

PART E - CONSTRUCTION PLANS (bound separately)

PART A – GENERAL REQUIREMENTS

NOTICE TO BIDDERS

Sealed proposals for the furnishing of all labor, materials, and equipment necessary for the development and installation of:

WATER SUPPLY PLANT #2

serving

The City of Carls Corner

Hill County, Texas

to include a new ground water storage tank, yard piping, and fencing, together with all other appurtenant construction for a complete and functional system will be received at *City Hall, 500 Cornelius Road, Carls Corner, Texas, 76645*, until **11:00 a.m., local time, Tuesday, June 30, 2026**, and then publicly opened and read aloud.

The project to be constructed will be financed with assistance from the Texas Department of Agriculture (TDA) under U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) program and is subject to all applicable Federal and State laws and regulations. This project has been designated as **TxCDBG Contract #CDV23-0466**.

Attention is called to the fact that not less than the federally determined prevailing (Davis-Bacon and Related Acts) wage rate as issued by the Texas Department of Agriculture and contained in the contract documents must be paid on this project. In addition, the successful bidder must ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, sexual identity, gender identity, or national origin.

Adherence to the grant recipient's Section 3 Policy is required for contracts and subcontracts.

Iron and steel products, Manufactured Products, and Construction Materials used in the project shall comply with the Build America, Buy America Act (BABA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58.

All contractors/subcontractors that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs may not undertake any activity in part or in full under this project.

Electronic bids will not be accepted for this project.

Bids shall be submitted in a sealed envelope upon the blank proposal form furnished. Sealed envelopes shall be marked "A SEALED BID for Carls Corner WSP #2."

Project plans, specifications, and contract documents may be examined at no charge. Digital versions of the sealed plans, specifications, and bid forms are available free of charge at the following locations:

- City of Carl's Corner City Hall, 500 Cornelius Road, Carl's Corner, Texas 76645
- Wasteline Engineering, Inc., 5064 E. I-20 Service Road S., Willow Park, Texas 76087

The Owner reserves the right to reject any or all bids and waive any or all defects and irregularities in the bidding. **Bids may be held by the Owner for a period not to exceed sixty (60) days** from the date of the bid opening for the purpose of reviewing the bids and investigating the bidder's qualifications prior to the contract award. The Successful Bidder, if any, will be the responsible bidder, which in the Owner's judgment will be most advantageous to the Owner and result in the best and most economical completion of the Project.

Bidders are encouraged to read and follow the Instructions to Bidders section of the Contract Documents.

The City of Carls Corner

SPECIAL INSTRUCTIONS TO BIDDERS

To be considered, the proposal must be made in accord with these instructions to bidders.

1. GOVERNING DOCUMENTS:

The Contract Documents including but not limited to the drawings and specifications shall be considered cooperative; therefore, work or material called for by one and not shown or mentioned in the other shall be accomplished or furnished in a faithful manner as though required by all.

The order or precedence in case of conflicts or discrepancies between various parts of the Contract Documents subject to the ruling of the Engineer shall generally, but not necessarily, follow the guideline listed below:

- a. Plans
- b. Special Instructions to Bidders
- c. Specifications
- d. Owner's Special Conditions
- e. General Conditions

2. BID SECURITY:

- a. A bid bond in the amount of 5% of the bid issued by an acceptable surety shall be submitted with each bid. A certified check or bank draft payable to the Owner or negotiable U.S. Government Bonds (as par value) may be submitted in lieu of the Bid Bond.
- b. The bid bond or its comparable will be returned to the bidder as soon as practical after the opening of the bids.

3. INSPECTION OF SITE:

The bidder shall make a careful examination of the project site and shall make such explorations as he may deem necessary to determine the conditions to be encountered, improvements and obstructions which may be encountered, especially those to be protected; methods of providing ingress and egress to private as well as public property; methods of handling traffic during construction and maintenance of the entire project as well as any section thereof; protection of all existing structures both above and below ground; and how the plans fit the proposed project and especially if any discrepancies exist.

The bidder should thoroughly examine and familiarize himself with the drawings, technical specifications, and all other contract documents. The bidder, by the execution of the contract, shall in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal document or to visit the site or acquaint himself with the conditions there existing. The Owner will be justified in rejecting any claim based on lack of inspection of the site prior to the bid.

Unforeseen conditions shall not constitute a claim for additional payment under the terms of the contract nor constitute a basis for the cancellation of the contract. ***No geotechnical report has been prepared for the project.***

4. QUESTIONS:

No oral interpretations will be made to any bidder. Bidders desiring further information or further interpretation of any part of the Contract Documents or Plans are hereby obligated to submit a written request online to gbreisch@wasteline-eng.com for such information not less than **five (5) calendar days** before the Bid opening. Answers to these requests will be given, in writing, to all bidders as addenda to the Contract, and each addendum will be made a part of the Contract. No explanation or interpretation of the Contract, other than written addenda, shall be binding.

Should a bidder find discrepancies in, or omissions from the Contract Documents, or should he be in doubt as to their meaning, he should at once notify the Engineer at the above email address in order that a written addendum may be distributed to all bidders. Bidders shall acknowledge receipt of addenda(s) in the bid proposal.

5. IRREGULAR PROPOSALS:

- a. All bids must be submitted on the forms provided and are subject to all requirements of the Contract Documents, including the Drawings.
- b. All bids must be regular in every respect and no interlineations, excisions or special conditions may be made or included by the bidder.
- c. Bid documents, including the bid, the bid bond, and the statement of bidders' qualifications shall be sealed in an envelope and clearly labeled with the words 'A Sealed Proposal', the project number, name of bidder and the date and time of bid opening.
- d. The Owner may consider as irregular any bid on which there is an omission, alteration of, or departure from the bid form and, at its option, may reject any irregular bid.
- e. The Owner reserves the right to waive any irregularities and to make the award in the best interest of the Owner.
- f. In the case of ambiguity or lack of clearness in stating prices in the proposal, the Owner reserves the right to adopt the price most advantageous to the Owner.
- g. If a contract is awarded, it will be awarded to a responsible bidder on the basis of the lowest/best bid and the selected alternate bid items, if any. The contract will require the completion of the work in accordance with the contract documents.

6. BONDS:

- a. Performance and Payment Bonds will be required.
- b. **A two (2) year Maintenance Bond** in the amount of 100% of the contract price will be required for this project.
- c. The failure of the successful bidder to execute the agreement and supply the required bonds within ten (10) days after the prescribed forms are presented for signature, or within

such extended period as the Owner may grant, shall constitute a default and the Owner may, at its option, either award the contract to the next lowest responsible bidder, or re-advertise for bids. In either case, the Owner may charge against the bidder the difference between the amount of the bid and the amount for which a contract is subsequently executed irrespective of whether this difference exceeds the amount of the bid bond. If a more favorable bid is received through re-advertisement, the defaulting bidder shall have no claim against the Owner for a refund.

7. TAXES, LICENSES AND FEES:

Certain taxes, licenses, fees, and other similar items are part of the cost of the Work, and it shall be Contractor's responsibility to familiarize itself with these costs and to observe and comply with the Laws and Regulations relating to the same. The prices, sums, rates, and other charges set forth in the Contractor's Bid shall cover and include all such costs. ***Owner is exempt from Texas sales and use taxes pursuant to Texas Tax Code § 151.309 as a political subdivision of the State of Texas.*** Owner shall provide Contractor, if requested by Contractor in writing, with a completed Texas Sales and Use Tax Exemption Certification as evidence of the applicability of such exemption, as limited by applicable statute. In addition, Contractor, and all subcontractors to Contractor (i) shall not include any provision for Texas sales and use taxes with respect to such exempt items in any Bid or the Contract Price, and (ii) shall pass on to the Owner cost savings due to the exempt status of such exempt items. Contractor's contracts with all subcontractors to Contractor shall include the foregoing provision regarding the exemption from Texas Sales and use taxes. Contractor must pay taxes on items that are not exempt.

8. USE OF SEPARATE BID FORMS:

These specification documents include a complete set of bid forms which are for the convenience of the bidders. These forms may be copied and submitted together with a bid bond as described above.

9. ALTERNATE BID ITEMS:

No alternate bids or bid items will be considered unless they are specifically requested by the technical specifications and itemized in the Bid Form.

10. STATEMENT OF BIDDERS QUALIFICATIONS:

The apparent most qualified, responsible bidder shall submit to the Engineer, within 5 calendar days of notification, either i) a fully completed Contractor's Statement of Qualification or ii) a written statement that the most recently submitted Contractor's Statement of Qualification is accurate, which statement shall be considered in the award of the Contract. Failure to accurately complete the Contractor's Statement of Qualification or to submit the Statement will, at Owner's option, disqualify the bidder from consideration in the award of the Contract. The form of the Contractor's Statement of Qualification is available from Engineer. No other form of Statement of Qualification will be acceptable. Evidence of out-of-state corporation to conduct business in the State of Texas, along with the contractor license number, must also be provided.

11. UNIT PRICE:

The unit price for each of the several items in the bid shall include its pro rata share of overhead so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price bid represents the total bid. Any bid not conforming to this requirement may be rejected as informal. Special attention is drawn to this condition, as the unit prices will be used to determine the amount of any change orders resulting from an increase or decrease in quantities.

12. CORRECTIONS:

Erasures or other corrections in the bid must be noted over the signature of the bidder.

13. TIME OF RECEIVING BIDS:

Bids received prior to the advertised hour of opening shall be kept securely sealed. The officer appointed to open the bids shall decide when the specified time has arrived, and no bid received thereafter will be considered.

14. WITHDRAWAL OF BIDS:

Bids may be withdrawn by written request dispatched for delivery in the normal course of business prior to the bid opening. The bid guaranty of any bidder withdrawing his bid will be returned promptly.

15. BID MODIFICATIONS PRIOR TO BID OPENING:

a. Any bidder may modify his bid 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 at any time prior to the scheduled opening of bids, provided such communication is received by the Owner prior to the opening time. The communication should not reveal the bid price but should provide the addition, subtraction, or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is open. If written confirmation is not received within twenty-four (24) hours from the bid opening time, no consideration will be given to the modification.

b. Likewise, any bidder may modify a bid by submitting a supplemental bid in person prior to the scheduled opening time for the bids. Such supplemental bid should mention only additions or subtractions to the original bid to not reveal the final prices or terms to the Owner until the sealed bid is open.

16. AWARD OF CONTRACT/REJECTION OF BIDS:

The Contract will be awarded to the responsive, responsible bidder submitting the lowest/best bid. The bidder selected will be notified at the earliest possible date. The Owner reserves the right to reject any or all bids and to waive any informality in bids received where such rejection or waiver is in its interest.

The Owner reserves the right to consider as unqualified to do the work any bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the improvements embraced in this contract.

The Owner reserves the right to conduct an independent evaluation of each bidders' qualifications and experience prior to award of a Contract. At the option of the Owner, all or part of the submitted bid may be awarded. The Owner also reserves the right to reject any or all bids and cancel the project. The formal award of contract will be made at a scheduled meeting of the **City of Carls Corner City Council**, open to the public pursuant to the provisions of the Texas Open Meetings Act, Section 551, Texas Government Code.

17. WATER FOR CONSTRUCTION:

Water used for any purpose incidental to this project, will be furnished by the Contractor. The Contractor shall make the necessary arrangements for securing and transporting such water. Water shall not be used in a wasteful manner.

18. LIMITS OF CONTRACTOR'S OPERATIONS:

The working operations of the Contractor shall be conducted so as to create a minimum of inconvenience to the Owner or to the public.

19. PROPERTY PROTECTION:

The Contractor shall take adequate precautions to protect all property along and adjacent to the Contractor's field of operations, especially but not limited to fences, shrubs, and trees. Any damage shall be restored, repaired, replaced, or renewed to a condition equal to or better than existed prior to the Contractor's operation.

20. SUBSIDIARY WORK:

Any and all work specifically governed by documentary requirements for the project, such as conditions imposed by the Plans, or these Contract Documents, in which no specific item for bid has been provided for in the Proposal, shall be considered as a subsidiary item of work, the cost of which shall be included in the price bid in the Proposal for each bid item. Surface restoration and cleanup are general items of work which fall in the category of subsidiary work.

21. OCCUPATIONAL SAFETY AND HEALTH ACT:

All work performed under this contract shall meet with the requirement of the Occupational Safety and Health Act. It is the responsibility of the Contractor to familiarize himself with the latest provisions of regulations published by the Occupational Safety and Health Administration in the Federal Register and to perform his responsibilities thereunder.

The Contractor further agrees to indemnify and hold harmless the Owner and the Engineer for all damages suffered by the Owner and the Engineer resulting from the Contractor's failure to comply with the Act and the Standards issued thereunder.

22. VIDEO RECORDING:

The Contractor shall make a digital video recording of the entire project site prior to beginning construction. A copy of the digital video recording shall be presented via flash drive to the Engineer PRIOR to the commencement of any work on the project.

23. EXCESS LIABILITY INSURANCE:

Contractor shall obtain, pay for, and maintain an excess liability insurance policy during the contract term, insuring Contractor for an amount of not less than \$2,000,000 combined single limit bodily injury and property damage liability insurance, including death, in excess of the primary coverage required by the General Contract Conditions. The Owner and Engineer shall be named as additional insureds.

24. AS-CONSTRUCTED PLANS:

Upon completion of the construction, the Contractor shall provide to the Engineer a complete set of as-constructed plans indicating the work as actually constructed. A copy of the as-constructed plans will be sent to the owner after the changes have been made.

This information shall be submitted at one time and prior to the final payment request.

25. TIMELINESS OF PERFORMANCE:

The Contractor acknowledges the importance to the Owner of the Owner's project schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement. By executing this Agreement, the Contractor agrees to substantially complete the construction of the new facilities and to have same on-line and functioning within the time-period stipulated in the Bid Form. **Failure to do so may result in a charge from the Owner to the Contractor of two hundred and fifty dollars (\$250.00) for each calendar day of delay.** The Contractor shall also be responsible for additional costs to the Owner such as engineering and/or legal fees.

Excusable Delays:

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with damages for any delays in the completion of the work due to:

- (1) Any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency.
- (2) Any acts of the Owner.
- (3) Causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the Owner, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones or other extreme weather conditions.

26. SCHEDULE AND SEQUENCE OF CONSTRUCTION:

Within ten (10) days **prior to submission of the first partial payment request**, the Contractor

shall submit to the Engineer for approval the schedule under which the Contractor proposes to complete the project.

If, in the opinion of the Engineer, construction progress falls behind the schedule, the Contractor shall take such action as necessary to improve his progress, and the Contractor shall submit to the Engineer a revised schedule demonstrating his proposed plan to make up the lag in scheduled progress and complete the project within the contract time.

27. CHANGE ORDERS:

All Change Orders will require approval of the Owner.

28. STATEMENT OF MATERIALS AND OTHER CHARGES:

The bidder shall take note of the last page of the Proposal titled "A Statement of Materials and Other Charges". The blank spaces on the form are not to be filled in by the bidder at the time of submitting the proposal. **This form is to be executed by the successful bidder only.** It is included to familiarize the bidder with the form.

29. WORKER'S COMPENSATION INSURANCE:

Attention is called to the requirements for the compliance by the Contractor with Title 28 Texas Administrative Code, Part 2, Chapter 110, Subchapter B, Rule 110.110 regarding coverage and certificates of coverage for the contractor's employees, including all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to independent contractors, subcontractors, leasing companies, motor carriers, Owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. Services includes but is not limited to providing, hauling, or delivering equipment, or materials, providing labor, transportation, or other service related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries and delivery of portable toilets.

30. DISINFECTION:

The Contractor shall be responsible for the disinfection of water lines. Disinfection shall be in accordance with AWWA Standard C651. After disinfection the water lines will be flushed and sampled before being placed in service. Samples must be collected for microbiological analysis to check the effectiveness of the disinfection procedure which is to be repeated if contamination persists. A minimum of one sample for each 1,000 feet of completed water line will be required or at the next available sampling point beyond 1,000 feet as designated by the Engineer.

31. COMPLETION OF PROJECT:

For this project, **construction completion** by the Contractor shall be following completion of the construction and submittal to the Engineer of all documents required by these specifications. **Final completion** of the project shall be upon the acceptance of the construction by the Owner and the Engineer and approval to place same in use.

At Substantial Completion, the payment to the Contractor shall be ninety-five percent (95%) of the contract amount. At Final Completion, payment shall be made to the Contractor of the remaining five percent (5%) retainage amount.

32. PRE-BID CONFERENCE:

There will not be a pre-bid conference for this contract.

33. HOUSE BILL 1295:

Provision of Texas Ethics Commission Form 1295 ("TEC Form 1295") pursuant to Texas Government Code § 2252.908(the "Interested Party Disclosure Act" or the "Act"): Unless the bidder is exempt from such requirements pursuant to Texas Government Code Section 2252.908(c)(4), the Owner may not award the contract to a bidder unless the bidder has provided to the Owner a completed and signed TEC Form 1295 which has been assigned a certificate number by the Texas Ethics Commission (the "TEC"). Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed, and provided to the Owner. The TEC Form 1295 may accompany the bid or may be submitted separately but must be provided to the Owner prior to the award of the contract. For purposes of completing the TEC Form 1295, the entity's name is **The City of Carls Corner**; the contract ID number is **21820**; and the description of goods and services is **Construction of a Water Storage Tank**. Neither the Owner nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation to undertake responsibility for advising any bidder with respect to the proper completion of the TEC Form 1295.

END OF SECTION

BID FORM**ARTICLE 1 – BID RECIPIENT**

- 1.01 This Bid is submitted to:

*The City of Carls Corner
500 North Cornelius Road
Carls Corner, TX 76645*

On the exterior of a single sealed envelope/box, place in large letters the following information:

- 1) **“A Sealed Bid for Water Supply Plant #2”** and the corresponding scheduled Bid opening date and time.
- 2) **Bidder’s full company name, address, and phone number.**

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

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:

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

<u>Addendum No.</u>	<u>Addendum Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may

- affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all plans from other utility companies to avoid newly installed lines associated with the overall project.
- Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the site; information and observations obtained from visits to the site; the Bidding Documents; and the site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- E. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- F. Bidder is aware of the general nature of work to be performed by Owner and others at the site that relates to the Work as indicated in the Bidding Documents.
- G. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- H. The Bidding Documents are generally sufficient to indicate and convey understanding of terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER'S CERTIFICATION**4.01 Bidder certifies that:**

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid.
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

(the remainder of this page is blank)

ARTICLE 5 – BASIS OF BID

5.01 The project is being bid in one phase. Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

5.02 **BASE BID**

Item No.	Quantity & Unit	Description of Item and Unit Price	Total Amount
1.	1 LS	Mobilization / Demobilization , includes all pre-construction tasks and coordination to begin work and leave job site (cannot exceed 6% of contract price, and shall be proportioned as 60/40 in billing percentages, respectively), per lump sum:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	
2.	1 LS	Insurance & Bonds , per lump sum:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	
3.	200 LF	Temporary Erosion, Sediment, and Water Pollution Control , per linear foot:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	
4.	1 LS	Grading for Ground Storage Tank , includes all labor, equipment and materials to finish grade all disturbed areas to drain, as specified, for the lump sum of:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	
5.	1 LS	Ground Storage Tank Base , includes galvanized steel retainer ring kit, gravel, and all labor, equipment and materials to install and make ready for the ground storage tank, for the lump sum of:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	
6.	1 LS	Factory Powder Coated, Bolted Steel 160,000 Gallon Ground Storage Tank , includes all labor, equipment, and materials to install and make operationally complete, for the lump sum of:	
		_____ Dollars	
		And _____ Cents (\$ _____) \$ _____	

7. 1 LS **Yard Piping**, includes all labor, equipment, and materials to complete the system as specified, piping, valves, valve boxes, fittings, etc., within the fenced site as indicated on the plans, for the lump sum of:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____
8. 448 LF **Chain Link Fencing and Single 10' Swing Gate**, includes all labor, equipment and materials, and gate as specified and shown on the plans, per linear foot:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____
9. 1 LS **Hydropneumatic Pressure Tank Accessories**, includes all labor, equipment and materials to install and make an operationally complete system, for the lump sum of:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____
10. 1 LS **Electrical**, including connection to the incoming power supply; all conduit, junction boxes, wiring, etc., on site, and in the Pump Building, for the lump sum of:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____
11. 1 LS **Flowmeter – 2" Badger Meter, Recordall Turbo Series Model 200**, installed in the Flowmeter Box, includes all labor, equipment and material, and fittings to complete the installation, for the lump sum of:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____
12. 1 LS **Flowmeter Box – Oldcastle Model 1324-18 (or equal)**, includes all labor, equipment, and materials necessary to provide a box for the flowmeter, for the lump sum of:
- _____ Dollars
And _____ Cents (\$ _____) \$ _____

**TOTAL BASE BID - WATER SUPPLY PLANT
ITEMS 1–12 INCLUSIVE**

\$ _____

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions.

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, determined as provided in the Contract Documents.

All unit prices listed in 5.02 for bid items shall include the related installation costs and other related items of work.

ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Contract Agreement.

6.02 Bidder accepts the provisions of the Contract Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security in the form of a bid bond;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. List of Project References;
- E. Work Experience
- F. List of Material Manufacturers, for the provided items

ARTICLE 8 – DEFINED TERMS

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

(the remainder of this page is blank)

ARTICLE 9 – BID SUBMITTAL

9.01 By signing this Document, I agree that I have received and reviewed all Addenda and considered all costs associated with the Addenda in calculating the Total Bid Price.

This Bid is submitted by:

(Print or type full name of your proprietorship, partnership, corporation, or joint venture. *)

A Corporation

Corporation Name: _____

(SEAL)

State of Incorporation: _____

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

** By: _____

(Signature – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest: _____

Date of Qualification to do business in Texas is ____/____/____.

Bidder's Business Address: _____

Phone No. _____ Fax No. _____

E-mail _____

SUBMITTED on _____, 20____.

* If Bid is a joint venture, add additional Bid Form signature sheets for each member of the joint venture.

** Bidder certifies that the only person or parties interested in this offer as principals are those named above. Bidder has not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding.

Note: This document constitutes a government record, as defined by § 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of the Texas Penal Code.

State Contractor License No. _____. [If applicable]

(the remainder of this page is blank)

STATEMENT OF MATERIALS and OTHER CHARGES for BASE BID

Materials incorporated into the project:	\$	_____
All other charges:	\$	_____
Total*:	\$	_____

*This total must agree with the total figure shown in the Proposal for the Base Bid Items.

For purposes of complying with the Texas Tax Code, the Contractor agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no more than the invoice price for such material to the Contractor.

END OF SECTION

(SAMPLE FORM)
CERTIFICATE OF INSURANCE

TO:

Date: _____

 Owner

Project No. _____

 Address

 Type of _____
 Project _____

THIS IS TO CERTIFY THAT _____
 (Name and address of insured)

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of Insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described.

TYPE OF INSURANCE

	Policy No.	Effective Date	Expiration Date	Limits of Liability
Public Liability				1 Person \$ _____ 1 Accident \$ _____
Contingent Liability				1 Person \$ _____ 1 Accident \$ _____
Property Damage				
Builder's Risk				
Automobile				
Other				

The foregoing policies (do) (do not) cover all subcontractors.

Location Covered: _____

Description of Operations Covered: _____

The above policies either in the body thereof or by appropriate endorsement provide that they may not be changed or canceled by the insurer in less than five days after the insured has received written notice of such change or cancellation.

When applicable local laws or regulations require more than five (5) days actual notice of change or cancellation to the assured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.

(Name of Insurer)

By _____

Title _____

GENERAL CONDITIONS

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1—Definitions and Terminology	1
1.01 Defined Terms.....	1
1.02 Terminology.....	7
Article 2—Preliminary Matters	8
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance	8
2.02 Copies of Documents	8
2.03 Before Starting Construction	8
2.04 Preconstruction Conference; Designation of Authorized Representatives.....	9
2.05 Acceptance of Schedules	9
2.06 Electronic Transmittals.....	10
Article 3—Contract Documents: Intent, Requirements, Reuse	10
3.01 Intent.....	10
3.02 Reference Standards	11
3.03 Reporting and Resolving Discrepancies.....	12
3.04 Requirements of the Contract Documents.....	13
3.05 Reuse of Documents	13
Article 4—Commencement and Progress of the Work	14
4.01 Commencement of Contract Times; Notice to Proceed	14
4.02 Starting the Work.....	14
4.03 Reference Points	14
4.04 Progress Schedule	14
4.05 Delays in Contractor’s Progress	15
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions.....	16
5.01 Availability of Lands	16
5.02 Use of Site and Other Areas	17
5.03 Subsurface and Physical Conditions.....	19
5.04 Differing Subsurface or Physical Conditions	19

5.05	Underground Facilities	21
5.06	Hazardous Environmental Conditions at Site	23
Article 6—Bonds and Insurance		25
6.01	Performance, Payment, and Other Bonds.....	25
6.02	Insurance—General Provisions.....	26
6.03	Contractor’s Insurance	28
6.04	Builder’s Risk and Other Property Insurance.....	33
6.05	Property Losses; Subrogation	34
6.06	Receipt and Application of Property Insurance Proceeds.....	35
Article 7—Contractor’s Responsibilities		36
7.01	Contractor’s Means and Methods of Construction	36
7.02	Supervision and Superintendence	36
7.03	Labor; Working Hours	36
7.04	Services, Materials, and Equipment.....	37
7.05	“Or Equals”	39
7.06	Substitutes	40
7.07	Concerning Subcontractors and Suppliers	42
7.08	Patent Fees and Royalties	44
7.09	Permits	44
7.10	Taxes.....	44
7.11	Laws and Regulations.....	45
7.12	Record Documents	45
7.13	Safety and Protection.....	45
7.14	Hazard Communication Programs	47
7.15	Emergencies.....	47
7.16	Submittals.....	47
7.17	Contractor’s General Warranty and Guarantee	50
7.18	Indemnification	51
7.19	Delegation of Professional Design Services	53
Article 8—Other Work at the Site		56
8.01	Other Work	56
8.02	Coordination	56
8.03	Legal Relationships.....	57

Article 9—Owner’s Responsibilities	58
9.01 Communications to Contractor	58
9.02 Replacement of Engineer	59
9.03 Furnish Data.....	59
9.04 Pay When Due	59
9.05 Lands and Easements; Reports, Tests, and Drawings	59
9.06 Insurance	59
9.07 Change Orders	59
9.08 Inspections, Tests, and Approvals.....	59
9.09 Limitations on Owner’s Responsibilities.....	59
9.10 Undisclosed Hazardous Environmental Condition.....	60
9.11 Evidence of Financial Arrangements.....	60
9.12 Safety Programs.....	60
Article 10—Engineer’s Status During Construction.....	60
10.01 Owner’s Representative	60
10.02 Visits to Site	60
10.03 Resident Project Representative.....	61
10.04 Engineer’s Authority.....	61
10.05 Determinations for Unit Price Work.....	61
10.06 Decisions on Requirements of Contract Documents and Acceptability of Work	61
10.07 Limitations on Engineer’s Authority and Responsibilities	62
10.08 Compliance with Safety Program.....	62
Article 11—Changes to the Contract.....	62
11.01 Amending and Supplementing the Contract	62
11.02 Change Orders	63
11.03 Work Change Directives	64
11.04 Field Orders.....	64
11.05 Owner-Authorized Changes in the Work.....	64
11.06 Unauthorized Changes in the Work	64
11.07 Change of Contract Price	65
11.08 Change of Contract Times.....	65
11.09 Change Proposals	65
11.10 Notification to Surety	67

Article 12—Claims	67
12.01 Claims	67
Article 13—Cost of the Work; Allowances; Unit Price Work	68
13.01 Cost of the Work	68
13.02 Allowances	72
13.03 Unit Price Work	73
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work	74
14.01 Access to Work	74
14.02 Tests, Inspections, and Approvals	74
14.03 Defective Work	75
14.04 Acceptance of Defective Work	75
14.05 Uncovering Work	76
14.06 Owner May Stop the Work	76
14.07 Owner May Correct Defective Work	76
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period	77
15.01 Progress Payments	77
15.02 Contractor’s Warranty of Title	80
15.03 Substantial Completion	81
15.04 Partial Use or Occupancy	82
15.05 Final Inspection	82
15.06 Final Payment	83
15.07 Waiver of Claims	84
15.08 Correction Period	85
Article 16—Suspension of Work and Termination	86
16.01 Owner May Suspend Work	86
16.02 Owner May Terminate for Cause	86
16.03 Owner May Terminate for Convenience	87
16.04 Contractor May Stop Work or Terminate	88
Article 17—Final Resolution of Disputes	88
17.01 Methods and Procedures	88
Article 18—Miscellaneous	89
18.01 Giving Notice	89
18.02 Computation of Times	89

18.03	Cumulative Remedies.....	89
18.04	Limitation of Damages.....	89
18.05	No Waiver	89
18.06	Survival of Obligations.....	90
18.07	Controlling Law	90
18.08	Assignment of Contract	90
18.09	Successors and Assigns.....	90
18.10	Headings	90

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, including all exhibits attached thereto, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, designates the specific items that are Contract Documents, and includes other contract terms. References to the Agreement includes the Exhibits attached thereto and expressly incorporated therein.
 3. *Application for Payment*—The form acceptable to Engineer and Owner 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. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Calendar Day* – Any day of the week or month, no day being excepted. The Contractor will be allowed to work on Saturdays providing that the Contractor notifies Owner forty-eight (48) hours prior to work. The Contractor may undertake work only between 7:00 a.m. and 7:00 p.m. on Monday through Saturday except in the case of urgent necessity in the interest of Public Safety.
 9. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract. All Change Orders must comply with the *Tex. Water Code § 49.273 and 30 Tex. Admin. Code § 293.81*. Extra work will not be considered for a Change Order or for

an adjustment in the Contract Price or the Contract Times unless the document is executed by both Owner and Contractor. Furthermore, the parties agree that under no circumstances will an act or failure to act on the part of Owner or Engineer constitute a waiver of the written Change Order requirement for extra work. A written Change Order is a strict condition precedent for the payment for extra work. Contractor shall immediately provide copies of all Change Orders to the Engineer.

10. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
11. *Claim*
 - a. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision or Owner's denial regarding a Change Proposal, or seeking resolution of a contractual issue that Contractor is required by the Contract Documents to submit to the Engineer for an initial decision and Engineer has declined to address. A demand for money or services by a third party is not a claim.
12. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations including but not limited to: (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
13. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
14. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
15. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
16. *Contract Times*—The number of Calendar Days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

17. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work. For purposes of giving or receiving notices, directives, Change Orders, or any other information from the Engineer or Owner to the Contractor, the Contractor shall designate one person as its Designated Representative to receive such notice, directives, Change Orders, or other information. If the person so identified by the Contractor is not present on the job site during normal working hours for more than two consecutive working days, the Contractor shall in writing, addressed to the Engineer and the Owner, identify the individual who is acting as its Designated Representative.
18. *Cost of the Work*—See Paragraph 13.01 for definition.
19. *District* – Collin County Municipal Utility District No. 6, an independent political subdivision of the State of Texas and a Municipal Utility district created and operating pursuant to the provisions of Section 59, Article XVI and Section 52-a, Article III of the Texas Constitution and Chapters 49 and 54, Texas Water Code.
20. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
21. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
22. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
23. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
24. *Engineer*—The individual or entity named as such in the Agreement.
25. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times. The Engineer will promptly obtain the signature of the Contractor on all Field Orders. This signature confirms that Contractor is not entitled to any change in the Contract Price or Contract Times. The Engineer will endeavor to obtain the signature of the Contractor on all Field Orders on a weekly basis.
26. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
- a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained

- pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
- b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
27. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
28. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
29. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
30. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid. Notice of Award alone shall not create remedies for any Work performed under the Agreement or Contract Documents. Until Contractor receives a Notice to Proceed from the Owner, the Contractor shall not proceed with work and has no remedy against the Owner for performing any Work related to the Project before receiving that Notice to Proceed.
31. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
32. *Owner*— GRBK Edgewood LLC on behalf of the District, the entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
33. *Owner's Representative* - the authorized representative of Owner who is assigned to the Site or any part thereof.
34. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor’s plan to accomplish the Work within the Contract Times.
35. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
36. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
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. If the Agreement or the Contract Documents, require the Contractor to allocate the Contract Price between labor or services and materials for purposes of maintaining Owner’s sales tax exemption, such allocation shall be reflected in the Schedule of Values.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
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, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
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.
44. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
45. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.
46. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

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

1.02 Terminology

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

“furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

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

ARTICLE 2—PRELIMINARY MATTERS

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

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

2.02 *Copies of Documents*

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

2.03 *Before Starting Construction*

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

3. A preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference, if not previously delegated in writing, Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. If Engineer notifies Contractor at the time Contractor submits the schedules stipulated in Paragraph 2.03, the schedules will be finalized at the preconstruction conference. If no such notification is given to Contractor, then the schedules may be finalized by a telephone conversation between Engineer and Contractor or at least 10 days before submission of the first Application for Payment. A conference, attended by Owner, Contractor, Engineer, and others as appropriate, will be held at least 10 days before submission of the first Application for Payment to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer and Owner if it provides an orderly progression of the Work to Substantial Completion within the Contract Times. If not accepted, the Progress Schedule shall promptly be revised by the Contractor in accordance with the recommendations of the Owner and Engineer and resubmitted for acceptance. Such acceptance will not impose on Engineer or Owner 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 must include a reasonable allocation, acceptable to Engineer, of the Contract Price to the component parts of the Work in accordance with the Contractor's Bid.
 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all. Notwithstanding the foregoing, if, and to the extent of, any inconsistency, ambiguity or discrepancy in the Contract Documents as identified in the Agreement, precedence shall be given to the Contract Documents in the following order of priority: (1) written Modifications issued after execution of this Agreement, with the Modification bearing the latest date taking precedence; (2) the Agreement, including the Exhibits attached thereto and expressly incorporated fully therein; (3) the Supplementary Conditions (if any); (4) the General Conditions; and the (5) the Drawings and Specifications identified in and incorporated into the Contract Documents, with those addenda and revisions bearing the latest date taking precedence. Without limiting the foregoing, the terms of the Agreement (including the Exhibits attached thereto), the Supplementary Conditions (if any), and the General Conditions shall control over any terms in the Drawings or Specifications inconsistent therewith. For purposes hereof, a Modification is a written amendment to the Contract Documents signed by both parties, or a Change Order, Work Change Directive, or Field Order issued in accordance with the requirements of the Contract Documents
- 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 may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.

- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

- 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents. Should Drawings disagree in themselves or with Specifications and are not clarified by addendum, the better quality or greater amount of work or materials shall be estimated upon and, unless otherwise ordered by Engineer in writing, shall be performed and furnished. Figures given on Drawings govern scale measurements, and large-scale details govern small scale drawings.
- 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer or any of their Subcontractors, consultants, agents or employees from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer and Owner any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* Recognizing the limitations under *Tex. Bus. & Comm. Code § 59.001 et. seq.*, and as indicated in paragraph 3.03.A.4 below if, before or during the performance of the Work, Contractor discovers, or should have discovered using ordinary diligence, any conflict, defect, error, ambiguity, inaccuracy, inadequacy, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Intentionally Deleted.
4. Notwithstanding any limitations in *Tex. Bus. & Comm. Code § 59.001 et. seq.* regarding Contractor's responsibilities for defects in plans, Drawings and Specifications, Contractor acknowledges that it is responsible for the consequences of design defects in, and does warranty the accuracy, adequacy, sufficiency, and suitability of plans, Drawings, Specifications, or other design documents that it provides and that are provided to the Contractor by its agents, contractors, Subcontractors, fabricators, or suppliers, or its consultants of every tier. Further, Contractor is responsible where Contractor provides input and guidance on plans, Drawings, Specifications or other design documents through work product signed and sealed by a licensed professional that is incorporated into plans, Drawings, Specifications, or other design documents used in the Work.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents or unless directed in Writing by Owner, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs) or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal in strict compliance with the procedures provided herein.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. Except as may otherwise be provided in the Agreement, the Contract Times will commence to run on the date as indicated in the Notice to Proceed. The Owner will provide a Notice to Proceed after the Effective Date of the Contract. Except as otherwise provided in the Agreement or the Supplementary Conditions, if any, a Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contractor have any remedies for Work performed on the Project until the Notice to Proceed is given to the Contractor.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run as set forth in the Notice to Proceed. No Work shall be done at the Site prior to such date. In no event will the Contractor have any remedies for Work performed under the Agreement or Contract Documents until the Contract Time commences to run.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer and Owner 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 without cost to Owner, unless such change is beyond the agreed-upon scope of Work contained in the Agreement. Construction staking is the responsibility of the Owner. The Owner will provide horizontal and vertical staking in line with general industry standards. The Contractor shall maintain all construction staking for the duration of the work. If any construction stakes are removed or altered during the course of the work through no fault of the owner, they shall be replaced at Contractor's expense, including costs for survey verification if so requested by the engineer.

4.04 *Progress Schedule*

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

disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled request an adjustment in the Contract Times and Contract Price as provided in the Contract Documents or to an equitable adjustment the absence of such terms. Contractor's entitlement to request an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times and Contractor submitting a Change Proposal and strictly complying with the Claim procedure as provided herein.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to request an adjustment in Contract Times, as provided in the Contract Documents or an equitable adjustment in Contract Times the absence of such terms, as a Change Proposal. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times and Contractor submitting a Change Proposal and strictly complying with the Claim procedure as provided herein. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph and Contractor shall not be entitled to an adjustment of Contract Price. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 - 4. Acts of war or terrorism.
- D. In addition to the limitations set forth above in this Section 4.05, Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
 - 1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.

2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

The Contractor shall put all private property drives in an accessible condition to allow residents ingress and egress before leaving the job Site for an extended period of time, except during the pouring and curing of drive approaches. "Extended period of time" is defined as overnight, weekends, holidays, or periods of inclement weather. The Contractor will leave with the Owner the phone numbers of responsible persons available twenty-four (24) hours a day to handle emergencies concerning egress and ingress. If a vehicle becomes stranded due to an inaccessible condition, any legitimate claims arising from such conditions shall be the sole responsibility of the Contractor. If such claims are not settled prior to the monthly pay estimate, they shall be deducted from that estimate.

The Contractor shall at all times conduct the work in such manner as to provide the least possible obstruction to public traffic and protect the safety of the public. Public safety and convenience and provisions therefore made necessary by the work, shall be the direct responsibility of the Contractor and shall be performed at his entire expense.

Materials placed on the Site, or materials excavated and the construction materials or equipment used shall be located so as to cause as little obstruction to the public as possible.

The owner reserves the right to remedy any neglect on the part of the Contractor with regard to public convenience and safety which may come to its attention. The cost of such work done or material furnished by the owner shall be deducted from monies due or to become due to the Contractor.

The Contractor shall be responsible for the protection of all fences, trees, streets and culverts and other improvements on the property adjoining the construction sites from damage by the Contractor's equipment and men. The Contractor shall be responsible for notifying the property owners in advance of any trimming to be done on trees. The Contractor will notify the District of any trees, shrubs, or bushes that must be removed by the construction. No trees will be removed by the Contractor until permission is

granted by the Owner. The Contractor will not be allowed to place excess material, forms, equipment, or any other material outside the District property without written permission of the property owner and approval of the Owner. No dumping will be allowed in floodplains or below the 100-year flood elevation of drainage ways.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, and without limiting Contractor's indemnity obligations arising under Paragraph 7.18, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible. Contractor's duty of defense, indemnity and hold harmless herein shall be limited to the extent caused in whole or in part by any act or omission of Contractor, its Subcontractors, or anyone directly or indirectly employed by Contractor or any Subcontractor or anyone for whose acts Contractor may be liable.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations. All trees, stumps, slashings, brush or other debris removed from the Project Site or right-of-way as a preliminary to the construction of the work or its appurtenances shall be removed from the property and disposed of in a manner approved by the Owner. No extra compensation will be made for the removal and hauling of this material; all costs shall be included in the various items listed in Contractor's Bid.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: Reports and Drawings: Owner shall provide information known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) and such other reports as identified in the Agreement or the Supplementary Conditions (if any).
- B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Contract Documents with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.49.b.
- D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 - 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
 - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 - 2. is of such a nature as to require a change in the Drawings or Specifications; or
 - 3. differs materially from that shown or indicated in the Contract Documents or upon the data checked by Contractor in fulfillment of its obligations under the Contract Documents; or

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

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

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing Site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
 1. Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both as provided by the Contract Documents or equitably adjusted in the absence of such terms, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

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

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Contract Documents the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
 1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site and repairing any damage thereto resulting from the Work.

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

causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question.
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
 4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings:* The Contract Documents identify:

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

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Contract Documents with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.49.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of

their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.

- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. Intentionally Deleted.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the, or other provisions of the Contract Documents. Contractor shall furnish a Maintenance Bond in the amount of one hundred percent (100%) of the Contract Price in favor of the Owner and the District for a period of two (2) years and shall be executed by an approved surety company authorized to do business in the State of Texas.
- B. Contractor shall also furnish such other bonds (if any) as are required by any other provisions of the Contract or Contract Documents.
- C. All bonds must be in the form included in the Bidding Documents and as attached to the Agreement as **Exhibit B**, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and

supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

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

6.02 *Insurance—General Provisions*

- A. Except as otherwise specified in this contract, the Contractor and each of its Subcontractors will be required at their own expense to maintain in effect at all times during the performance of the Work insurance coverages with limits not less than those set forth below with insurers and under forms of policies satisfactory to Owner. It shall be the responsibility of the Contractor to maintain adequate insurance coverages at all times and to ensure that its Subcontractors maintain adequate insurance coverages at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly agreed to by Owner in writing.
- D. At the time of execution of the Contract, Contractor shall deliver to Owner, with copies to each Additional Insured identified in the Contract, certificates of insurance and endorsements

establishing that Contractor and each of its Subcontractors has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other Additional Insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract. The certificates shall provide that any company issuing an insurance policy under this contract shall provide not less than 30-days advance notice in writing of cancellation, on-renewal, or material change in the policy of insurance. In addition, the Contractor shall immediately provide written notice to Owner upon receipt of notice of cancellation of an insurance policy or a decision to terminate or alter any insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied. Certificates of insurance and notices of any cancellations, terminations, or alterations of such policies shall be mailed to the Engineer and Owner.

- E. Owner shall deliver to Contractor, with copies to each Additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other Additional Insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance included in this Section 6.03, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Contract Documents as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.

- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 30 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other Additional Insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor and Contractor's Subcontractors (of every tier) shall purchase and maintain Worker's Compensation, Commercial General Liability, and all other insurance described below pursuant to the following conditions:

- 1. **COMMERCIAL GENERAL LIABILITY**

Commercial General Liability coverage ("CGL") shall be provided on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage). The CGL insurance general aggregate limit shall apply separately to this Project and Contractor shall provide evidence of same through ISO Endorsement CG 25 03 05 09. CGL insurance shall cover liability including, but not limited to, liability arising from premises, operations, independent contractors, products-completed operations, property damage, and personal injury and death resulting therefrom. Contractor and Subcontractors shall maintain CGL insurance with coverage as specified herein until all claims arising out of the Work are barred by applicable statutes of limitation or repose. There shall be no endorsement or modification of the CGL policy limiting the scope of, or excluding coverage for explosion, collapse, or underground property damage.

\$1,000,000	Occurrence Limit
\$2,000,000	General Aggregate
\$2,000,000	Products/Completed Operations Aggregate

2. AUTOMOBILE LIABILITY

Automobile liability coverage shall cover liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with the Work on the Project. Automobile liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. The liability insurance limits shall not be less than:

\$1,000,000	Each Accident
-------------	---------------

3. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

Worker's compensation coverage with occupational disease coverage in compliance with the statutory limits required under Texas law and employer's liability coverage with limits as set forth below. The alternate employer endorsement (WC 00 03 01 A) shall be attached showing Owner in the schedule as the alternate employer

Workers' Compensation- Employers' Liability	Statutory	
	\$1,000,000	Bodily Injury by Accident (accident)
	\$1,000,000 limit)	Bodily Injury by Disease (policy
	\$1,000,000	Bodily Injury by Disease (each employee)

A. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the division, or a coverage agreement (DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project.

"Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The Contractor shall post on each project Site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, Division of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

- (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

4. EXCESS LIABILITY

Excess liability insurance obtained by Contractor and any Subcontractors shall be excess of the CGL, automobile liability, and employers liability insurance on a "following form" basis. Continuing excess coverage shall include liability coverage for damage to the insured's completed work. This insurance shall be maintained until all claims arising out

of the Work are barred by applicable statutes of limitation or repose. Excess liability limits shall not be less than:

\$5,000,000 each occurrence

\$5,000,000 aggregate

5. POLLUTION LIABILITY

Pollution liability policies obtained by Contractor and any Subcontractor shall cover a pollution event or release on the Project Site resulting from the Contractor's or any Subcontractor's activities under and during the term of this Agreement and for completed operations and shall include the activities of Contractor, Subcontractors, suppliers and vendors. The annual aggregate shall apply separately to this Project. Pollution liability coverage shall include mold, mold remediation, bacteria, naturally occurring hazardous substances, and diminution in value resulting from mold as it pertains to work performed by the Contractor or its Subcontractors. Contractor and Subcontractors shall maintain pollution liability insurance with coverage as specified herein until all claims arising out of the Work are barred by applicable statutes of limitation or repose. Pollution liability limits shall not be less than:

\$2,000,000 each occurrence

\$2,000,000 aggregate

B. *General Provisions:* The policies of insurance required by this Paragraph 6.03, as supplemented, must:

1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required above or elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable;
 5. be provided by Contractor and each Subcontractor (of every tier) with limits as set forth above. The limits of such insurance may be adjusted in accordance with the nature of each Subcontractor's operations but, if such adjustment is requested, it must be submitted to Owner for approval before the Subcontractor enters into an agreement or any work commences under the agreement in question. The policies procured by Subcontractors must satisfy all conditions set forth in this Section 6.03; and
5. include all necessary endorsements to support the stated requirements.

- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner, Developer, and Engineer, and all other Indemnitees (as defined in Section 7.18) below and their officers, directors, agents, and employees. Owner and Indemnitees and their officers, directors, agents, and employees shall be included as additional insureds on each CGL policy procured by Contractor or its Subcontractors using ISO Additional Insured Endorsements CG 20 10 10 01 (ongoing operations) and CG 20 37 10 01 (completed operations) or endorsements providing equivalent coverage;
 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 4. not seek contribution from insurance maintained by the additional insured; and
 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.
- D. *Waiver of Subrogation*: Each policy of insurance must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against Owner and Indemnitees and their officers, directors, agents, and employees.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Contractor shall purchase and maintain until final payment builder's risk insurance upon the Work on an "all-risk" completed value from, in the amount of the Work's full insurable replacement cost with a deductible amount not more than \$50,000 per occurrence. Such insurance shall be evidenced by the kind of policy which does not have to be adjusted or reported upon periodically but shall provide constant insurance at full 100% of all insurable values as they are created during construction by performance of this Agreement. The insurance shall apply on a replacement cost basis. The insurance shall be written to cover all risks of physical loss, and shall insure at least against the perils of fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot or civil commotion and extended coverage including flood and earthquake and shall include coverage for physical loss or damage including, without duplication of coverage, theft, vandalism, terrorism and malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Contractor's services and expenses required as a result of such insured loss. The insurance shall also cover portions of the Work located away from the Project Site but intended for use at the Project Site, and shall also cover portions of the Work in transit. Builder's Risk Insurance shall provide, by endorsement or otherwise, that the insured property may be partially or fully occupied, and that the insurance will remain in full force and effect until the Project is finally complete and fully accepted by the Owner. Owner,

Contractor, Engineer, and all Subcontractors shall be included as insureds on this policy. The insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the premises. If not covered under the “all-risk” insurance or otherwise provided herein, CONTRACTOR shall purchase and maintain similar property insurance on portions of the Work stored on and off the Site or in transit when such portions of the Work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with the Paragraph 6.04.A shall comply with the requirements of Paragraph 6.03.B.

- B. *Intentionally Deleted.*
- C. *Intentionally Deleted.*
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder’s risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder’s risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder’s risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor’s expense.
- F. **CONTRACTOR’S EQUIPMENT POLICY.** Property insurance obtained for the Project may not cover all equipment, tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring and similar items commonly referred to as construction equipment, which may be on the Site and the capital value of which is not included in the Work. Any insurance policy covering Contractor’s or any Subcontractor’s equipment against loss by physical damage shall include an endorsement waiving the insurer’s right of subrogation against the Owner. SHOULD CONTRACTOR OR ANY SUBCONTRACTOR CHOOSE TO SELF INSURE THIS RISK, IT IS EXPRESSLY AGREED THAT CONTRACTOR AND ANY SUBCONTRACTOR HEREBY WAIVE ANY CLAIM FOR DAMAGE OR LOSS TO SAID EQUIPMENT IN FAVOR OF THE OWNER AND ALL INDEMNITEES. CONTRACTOR WILL OBTAIN SIMILAR WAIVERS IN FAVOR OF OWNER AND INDEMNITEES FROM ANY SUBCONTRACTOR ELECTING TO SELF-INSURE THIS RISK.

6.05 *Property Losses; Subrogation*

- A. The builder’s risk insurance policy purchased and maintained in accordance with Paragraph 6.04, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other

property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Contract Documents as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

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

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Contractor shall name Owner as Loss Payees with respect to Owner's interest in the Project. Loss under the Builder's Risk insurance shall be adjusted by the Owner. Owner shall pay other insureds their just shares of insurance proceeds received by Owner, and by appropriate agreements, written where legally required for validity, shall require Contractor to make payment to its Subcontractors in similar manner.

- B. Intentionally Deleted.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR’S RESPONSIBILITIES

7.01 *Contractor’s Means and Methods of Construction*

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

7.02 *Supervision and Superintendence*

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

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor’s employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor’s own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may

perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents. Before ordering materials or doing any work, the Contractor shall in all cases verify measurements at the Site or premises and check same against the Drawings. No extra charge or compensation will be allowed on the account of differences between actual dimensions and measurements shown on the Drawings. Any differences found shall be submitted to the Owner for resolution before proceeding with the Work.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All warranties and guarantees required by the Specifications will expressly run to the benefit of Owner and the District. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.
- D. Contractor agrees to assign to Owner and to the District at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work, and Contractor further agrees to perform the Work in such a manner to preserve any and all manufacturer's warranties.
- E. *Prevailing Wage Requirements:*
 - 1. Contractor and each Subcontractor shall, at all times, comply with *Tex. Gov't. Code § 2258* with respect to the payment of wages for the Work performed under this Agreement. All persons employed in the performance of the Work shall be paid not less than the general prevailing rates of per diem, holiday, and overtime wages prevailing in the locality for Work of a similar character as shown on the prevailing wage schedule provided by Owner. The specified wage rates are minimum rates only. Owner is not bound to pay any claims for additional compensation made by any Subcontractor because the Contractor pays wages in excess of the applicable minimum rate. The prevailing wage schedule is not a representation that qualified labor adequate to perform the Work is available locally at the prevailing wage rates. Failure to comply with this provision shall subject the Contractor to the penalties prescribed in *Tex. Gov't. Code § 2258*.
 - 2. *Notification to Workers.* Pursuant to *Tex. Gov't Code § 2258.022*, Owner has determined the prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to perform the Work on the Project and the prevailing rate for legal and holiday overtime work by utilizing the prevailing wage

rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.). Contractor shall post the prevailing wage schedule in a place conspicuous to all workers on the Site. Pursuant to *Tex. Gov't Code § 2258.024*, Contractor shall keep on Site, true and accurate records showing the name and occupation of each worker employed by the Contractor or any Subcontractor and the actual per diem wages paid to each worker. The record shall be open to inspection by the Owner at all reasonable hours for the duration of the Contract. When requested by Owner, Contractor shall furnish evidence of compliance with the Texas Prevailing Wage Law and the addresses of all workers.

3. With each Application for Payment, Contractor shall make available upon request certified payroll records, including from all Subcontractors of any tier level, on Form WH-347 as promulgated by the U.S. Department of Labor, as may be revised from time to time and in unlocked and unprotected Excel format. Pursuant to *Tex. Penal Code §§ 37.02 and 37.10*, employees of Contractor, and any Subcontractor shall be subject to prosecution for submitting certified payroll records that contain materially false information.
4. The prevailing wage schedule is in compliance with *Tex. Gov't. Code § 2258*. Should Contractor at any time become aware that a particular skill or trade not reflected on the wage schedule will be or is being employed in the Work, whether by Contractor or any Subcontractor, Contractor shall promptly inform Owner of the proposed wage to be paid for the skill along with a justification for same and Owner shall promptly concur with or reject the proposed wage and classification.
5. Contractor is responsible for determining the most appropriate wage for a particular skill in relation to similar skills or trades identified on the prevailing wage schedule. In no case, shall any worker be paid less than the wage indicated for laborers. Pursuant to *Tex. Labor Code § 214.008*, Owner requires Contractor and all Subcontractors properly classify individuals as employees or independent contractors.
6. *Complaints and Violations.*
 - a. Owner's Determination of Good Cause. Upon receipt of information concerning a violation of *Tex. Gov't Code § 2258*, Owner will conduct an investigation and make an initial determination as to whether good cause exists that a violation occurred. Upon making a good cause finding, Owner will retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage schedule and any supplements thereto, together with the applicable penalties in accordance with *Tex. Gov't. Code § 2258.023*, such amounts being subtracted from successive progress payments pending a final decision on the violation.
 - b. No Extension of Time. Contractor shall not be entitled to an extension of time for any delay arising directly or indirectly from any investigation of a violation if Owner's investigation reveals good cause existed for the investigation or arising out of a determination pursuant to Paragraph 7.04.6.a above that wages were not appropriately paid by Contractor or any Subcontractor.
 - c. Cooperation with Owner's Investigation. Contractor shall cooperate with Owner during any investigations hereunder. Such cooperation shall include, but not

necessarily be limited to, timely providing the information and/or documentation requested by Owner, which may include certified payroll records on Form WH-347 as promulgated by the U.S. Department of Labor, as may be revised from time to time and in unlocked and unprotected Excel format and copies of any and all Contract Documents.

- d. Appeals. In the event Contractor or any Subcontractor elects to appeal an initial determination made pursuant to subpart (a) above, such entity may do so in accordance with *Tex. Gov't. Code § 2258.023*. The Contractor or Subcontractor, as applicable, shall deliver notice of said appeal to Owner.
- e. Penalty for Violation. Contractor or any Subcontractor who violates *Tex. Gov't Code § 2258* shall pay to the Owner a penalty of sixty dollars (\$60) for each worker employed for each day, or portion thereof, that the worker is paid less than the wage rates stipulated in the prevailing wage schedule.

7.05 "Or Equals"

- A. *Contractor's Request; Governing Criteria*: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or the name of a specific Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. Materials and equipment of other Suppliers may be accepted by Engineer if sufficient information is submitted at the appropriate time as specified in Specifications, Product Substitution Procedures, and Instructions to Bidders by Contractor to allow Engineer to determine that the material or equipment proposed is an acceptable substitute and Owner approves of the substitution in a Change Order. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.

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

7.06 Substitutes

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site. Contractor acknowledges its responsibility for the accuracy, adequacy, sufficiency, and suitability of the substitution it proposes and *that Tex. Bus. Comm. Code § 59.002(d)* applies to the substitution. Contractor shall procure and furnish to Owner any design certifications required to include the substitution in the Drawings or Specifications.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

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

Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry of this Agreement and within seven (7) days after the Bid Opening, the apparent Successful Bidder and any other bidder so requested shall submit to Owner a list of the identity of all proposed Subcontractors and Suppliers for acceptance by Owner and Engineer. If requested by Owner, such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor and Supplier. If Owner or Engineer, after due investigation has reasonable objection to any proposed Subcontractor or Supplier, may before the Notice of Award is given request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid Price. If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The refusal to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, either person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.07.E of the General Conditions.
- E. Notwithstanding the foregoing in Paragraph 7.07.D, prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of all proposed Subcontractors and Suppliers (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such

proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

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

7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.
- B. The Owner will provide right-of-way and temporary construction easements for the purpose of construction without cost to the Contractor by securing permits in areas of public dedication. It shall be the responsibility of the Contractor, prior to the commencement of construction on or near private property not belonging to Owner, to inform the property owner of Contractor's intent to begin construction. Before beginning construction in areas of public dedication, the Contractor shall inform the agency having jurisdiction in the area prior to the commencement of the Work.

7.10 *Taxes*

- A. The District is a Special District and political subdivision of the State of Texas. Materials and services utilized in the construction of the Project may be exempt from state and local sales and use taxes pursuant to *Texas Tax Code § 151.309(5) and/or 34 Tex. Admin Code § 3.291(d)*. Contractor is responsible for compliance with all tax exemptions applicable to the Project. Owner will process all invoices submitted by Contractor to ensure the invoices comply with the District's tax-exempt status.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs, damages, and losses, and shall indemnify and hold harmless Owner and all Indemnitees (as defined in paragraph 7.18 from and against all claims, costs, losses, expenses, judgments, and damages (including but not limited to all fees and charges of engineers, architects, and other professionals, reasonable attorneys' fees incurred, and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations that were not known at the time of execution of the Agreement having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, otherwise Owner's determination or decision with regard to such adjustment shall be binding on Contractor.

7.12 *Record Documents*

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

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss including, but not limited to OSHA Standards and any other federal, state or local rules, regulations, statutes and orders applicable to construction; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and Separate Contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Contract Documents including, but not limited to, the Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.
- K. Owner and/or the District may, but are not required to, order that the work be stopped if a condition of immediate danger is found to exist. Nothing contained herein shall be construed to shift responsibility or risk of loss for injuries or damage sustained as a result of a violation

of this paragraph 7.13 from the Contractor to the Owner, District, or the Engineer. The Contractor shall remain solely and exclusively responsible for compliance with all safety requirements and for the safety of all persons and property at the project Site.

- L. Owner and Contractor expressly agree that the obligation to comply with applicable safety provisions is a material provision of this Contract and a duty of the Contractor. The Owner and the District reserve the right to require demonstration of compliance upon reasonable request. In the event the Contractor is unable to demonstrate compliance with the safety provisions of this Contract, Contractor agrees that such failure is deemed to be a material breach of this Agreement; and the Contractor agrees that upon such breach, all work pursuant to the Contract shall terminate until demonstration to Owner that the safety provisions of this Agreement have been complied with. In no event shall action or failure to act on the part of the Owner or the District be construed as a duty to enforce the safety provisions of this Agreement, nor shall it be construed to create liability for the Owner and/or the District for any act or failure to act in respect to the safety provisions of this Agreement.
- M. The Contractor shall be responsible for the Safety Equipment to be used by its employees and/or all of its subcontractors working on the Project Site. This equipment will include, but may not be limited to, hard hats, safety belts or harnesses, eye, face, hand, ear or hearing protection. Sport or athletic type shoes are not considered suitable work shoes on the Project Site.

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice, but in no instance more than 24 hours after the alleged emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because the action taken by Contractor in response to such emergency, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

- A. *Shop Drawing and Sample Requirements*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

- b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
 - 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 - 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
- 1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
 - 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

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

C. Engineer's Review of Shop Drawings and Samples

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent

resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

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

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.

- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner and the District that all Work will be in accordance with the Contract Documents and will be free from defects. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's and the District's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner and/or the District may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights.

- C. Contractor's warranty and guarantee to Owner and the District 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.
- D. 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, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
 - 1. Observations by Engineer;
 - 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. Use or occupancy of the Work or any part thereof by Owner;
 - 5. Any review and approval of a Shop Drawing or Sample submittal;
 - 6. The issuance of a notice of acceptability by Engineer;
 - 7. The end of the correction period established in Paragraph 15.08;
 - 8. Any inspection, test, or approval by others; or
 - 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. **INDEMNITY - GENERAL: TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, AND IN ADDITION TO ANY OTHER OBLIGATIONS OF CONTRACTOR UNDER THE CONTRACT OR OTHERWISE, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS OWNER, THE OWNER'S LENDER PROVIDING FINANCING FOR THE PROJECT, THE DISTRICT, THE ENGINEER, AND EACH OF THEIR OFFICERS, DIRECTORS, AFFILIATES, JOINT VENTURERS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, THE "INDEMNITEES" AND INDIVIDUALLY AN "INDEMNITEE") , FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, COSTS, EXPENSES, AND JUDGMENTS (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, , AND OTHER PROFESSIONALS, AND ALL REASONABLE ATTORNEYS' FEES AND COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR FURNISHING OF THE WORK OR OTHER ACTIVITIES OF THE CONTRACTOR OR ANY SUBCONTRACTOR, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES,**

ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, OR OTHER ACTIVITIES OF CONTRACTOR OR ANY SUBCONTRACTOR, INCLUDING, BUT NOT LIMITED TO (1) THE VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE OR OTHER APPLICABLE LAW BY CONTRACTOR OR ANY SUBCONTRACTOR (OR ANY OF THEIR EMPLOYEES) OF ANY TIER; (2) ANY BOND OR LIEN CLAIM ASSERTED BY ANY SUBCONTRACTOR OR SUPPLIER OF ANY TIER FOR WORK OR MATERIALS PROVIDED TO THE PROJECT, TO THE EXTENT PAYMENT HAS BEEN RECEIVED FROM OWNER; (3) BODILY INJURY OR DEATH OF ANY PERSON, OR PROPERTY DAMAGE, INCLUDING LOSS OF USE OF PROPERTY, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF OWNER OR ANY OF THE INDEMNITEES.

- B. INDEMNITY – EMPLOYEE INJURY CLAIMS.** IN ADDITION TO THE INDEMNIFICATION PROVIDED IN 7.18.A ABOVE, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS OWNER AND ALL INDEMNITEES FROM AND AGAINST ANY CLAIM, DAMAGE, LOSS, OR EXPENSE (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS), ARISING OUT OF, RESULTING FROM OR ATTRIBUTABLE TO ANY CLAIM OF BODILY INJURY, SICKNESS, DISEASE OR DEATH OF ANY EMPLOYEE OF CONTRACTOR, ANY SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY CONTRACTOR OR ANY OF ITS SUBCONTRACTORS, BROUGHT BY SUCH INJURED EMPLOYEE OR THE EMPLOYEE'S WORKERS COMPENSATION INSURANCE CARRIER (HEREINAFTER REFERRED TO AS AN "EMPLOYEE INJURY CLAIM"), EVEN TO THE EXTENT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ALLEGED TO BE CAUSED, IN WHOLE OR IN PART, BY THE SOLE OR CONCURRENT NEGLIGENCE OF OWNER OR ANY INDEMNITEE, IT BEING THE EXPRESSED INTENT OF THE OWNER AND CONTRACTOR THAT, IN SUCH EVENT, THE CONTRACTOR IS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE OWNER AND INDEMNITEES FROM THE CONSEQUENCES OF THEIR OWN NEGLIGENCE, WHETHER IT IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE BODILY INJURY, SICKNESS, DISEASE OR DEATH OF THE EMPLOYEE. THE INDEMNIFICATION OBLIGATIONS UNDER THIS PARAGRAPH SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. CONTRACTOR SHALL PROCURE LIABILITY INSURANCE COVERING ITS OBLIGATIONS UNDER THIS PARAGRAPH.
- C. In any and all claims against Owner any of the Indemnitees, , 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 Paragraphs 7.18.A or 7.18.B will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- D. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Paragraph 7.18 or the Additional Insured requirements of this Agreement, such legal limitations are made a part of the contractual obligations and shall operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect. Should any provision

in this Agreement be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, Section and/or Agreement shall not be affected thereby and shall remain valid and fully enforceable.

- E. Insurance covering the indemnification obligations of Contractor under the foregoing paragraphs shall be provided by Contractor, but Contractor's liability to Owner as provided herein shall not be limited by the amount of the insurance coverage(s) required of and provided by Contractor.
- F. The obligations contained in this Paragraph 7.18 shall survive the expiration, completion, abandonment and/or termination of the Agreement and Final Completion of the Work.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

7.20 *Construction in Public Roadways and Private Roadway*

- A. The Contractor shall make every effort to complete construction and allow immediate access to adjacent property at all driveway entrances located along the roads. Any owner's or tenant's of improvements where access and/or entrance drives are located shall be notified at least twenty-four (24) hours prior to the time the construction will be started at their driveways or entrances and be informed as to the length of time driveways will be closed, which period shall not exceed six (6) hours, except for final paving which shall not exceed seven (7) days.
- B. The Contractor shall be responsible for all road and entrance reconstruction, and repairs and maintenance of same, for a period of two (2) years from the date of acceptance. In the event the repairs and maintenance are not made immediately to the satisfaction of the Owner, and it becomes necessary for the Owner to make such repairs, the Contractor shall reimburse the Owner for the cost of such repairs.
- C. The Contractor shall, at all times, keep the roadway clear of dirt and other material to allow the free flow of traffic. The Contractor shall assume any and all responsibility for damage, personal or otherwise, that may be caused by the construction along public roadways or private driveways.
- D. Existing gravel driveways adjacent to the new construction shall be graded and the necessary gravel replaced to provide the property owners adequate access across the new construction. Compensation for adjusting and grading existing gravel or earth driveways shall be considered subsidiary to the various other items in the Contractor's Bid.

7.21 *Barricades, Lights, and Watchmen*

- A. Where the Work is performed in or adjacent to any street, alley or public place, the Contractor shall furnish and erect such barricades, fences, lights, and danger signals, shall provide such watchmen, and shall provide such other precautionary measures for the protection of persons or property and of the Work as necessary. Barricades shall be painted in a color that will be visible at night. From sunset to sunrise the Contractor shall furnish and maintain at least one light at each barricade and a sufficient number of barricades shall be erected to keep vehicles from being driven on or into any Work under construction.
- B. The Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights, and watchmen to protect it, and whenever evidence is found of such damage, the Owner may order the damaged portion immediately removed and replaced by the Contractor at his cost and expense. The Contractor's responsibility for the maintenance of barricades, signs, lights and for providing watchmen shall not cease until the project shall have been accepted by the Owner.
- C. The Contractor shall use only battery powered lights, enclosed lanterns or other lights satisfactory to the Owner. Smudge Pots or other lights which have an open flame will not be permitted

- D. The Contractor will be required to furnish all barricades, lights, signs, and flagmen where it becomes necessary to reroute traffic during the time construction is in progress in the District streets or highways. The detour will be approved by the Owner and, as applicable, the Texas Department of Transportation.
- E. The Contractor shall submit to the Engineer two (2) copies of each Traffic Control Plan two (2) weeks prior to closing any street or causing any obstruction to traffic on any street. The Contractor shall not proceed with the implementation of the Traffic Control Plan until notified by the Engineer that the plan has been accepted. The Traffic Control Plan shall be drawn at a scale not less than 1" = 200' unless approved by the Engineer and such that it is legible and shall include proposed street closings, detours, barricade placements, and sign placement, including advance warning signs, and pavement markings if necessary. The Contractor shall furnish and erect suitable barricades, signs, and appropriate pavement markings to protect motorists and pedestrians, as set forth in the latest edition of the TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES. The barricades, signs, and pavement markings shall be constructed, placed, and adequately maintained as set forth in the Traffic Control Plan or as directed by the Engineer or his/her authorized representative. Unless otherwise approved by the Engineer or his/her authorized representative, two-way traffic shall be maintained on all roadways under construction at all times. If it becomes necessary to detour traffic off the existing paved roadway for more than seven (7) days, a hard surface driving lane, such as asphalt, shall be properly constructed and maintained by the Contractor throughout the duration of the detour.

7.22 Fences and Drainage Channels

- A. Existing boundary fences to remain or other improvements removed to permit the prosecution of the work shall be replaced in the same location and left in a condition as good or better than that in which they were found unless otherwise called out in the plans. Contractor shall be responsible for any costs associated with repair or replacement of existing fencing. It is the Contractor's responsibility to make arrangements with adjacent property owners for any work at or near property lines including fence work.
- B. Where surface drainage channels are disturbed or blocked during construction, they shall be restored to their original condition or grade and cross section after work of construction is completed.

7.23 Protection of Trees

- A. No trees shall be removed or cut except upon the specific authority of the Owner. Trees adjacent to the work shall be protected from all damage by the Contractor's construction operations.

7.24 Cleanup

- A. During Construction - The Contractor shall at all times keep the job Site as free from all material, debris and rubbish as is practical and shall remove same from any portion of the job Site, when it becomes objectionable or interferes with the project in the opinion of the Owner.
- B. Final - Upon completion of the work, the Contractor shall remove from the Site all materials, debris, tools and equipment belonging to Contractor, and leave the Site with an appearance

acceptable to the Owner. The Contractor shall thoroughly clean all equipment and materials installed and shall deliver over such materials and equipment in a bright, clean polished and new appearing condition.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

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

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site (a "Separate Contractor"), the following will be provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various Separate Contractors;

2. An itemization of the specific matters to be covered by such authority and responsibility; and
 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Agreement, Contractor shall have sole authority and responsibility for coordination of its Work with that of Owner's Separate Contractors.
- C. Should Contractor cause damage to the work or property of any Separate Contractor at the site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any Separate Contractor against Contractor, Owner, District, Engineer, Engineer's Consultant or any other person, Contractor shall promptly attempt to settle with such Separate Contractor by agreement, or to otherwise resolve the dispute by mutual resolution or at law. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner, District and all Indemnitees harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, and other professionals and reasonable attorney's fees and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any Separate Contractor against Owner, District, or any Indemnitee to the extent based on a claim arising out of Contractor's performance of the Work. Should a Separate Contractor cause damage to the Work or property of Contractor or should the performance of Work by any Separate Contractor at the Site give rise to any other claim, Contractor shall not institute any action, legal or equitable, against Owner, District or any Indemnitee, or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, District, or any Indemnitee on account of any such damage or claim. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of a Separate Contractor and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Time attributable thereto, Contractor may make a claim for an extension of time in accordance with Article 12. An extension of the Contract Time shall be Contractor's exclusive remedy with respect to Owner, District, and any Indemnitee for any delay, disruption, interference or hindrance caused by any Separate Contractor. This paragraph does not prevent recovery from Owner, the District, or any Indemnitee for activities that are their respective responsibility.

8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any Separate Contractor working for Owner, or any utility owner, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor maybe entitled to an equitable adjustment in the Contract Price or the Contract Times or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price will be

conditioned on Contractor assigning to Owner all Contractor's rights against such Separate Contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

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

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Engineer and such other persons designated by Owner shall be copied on all correspondence between Owner and Contractor. The Owner and Contractor may communicate directly with each other or indirectly through Engineer about matters arising out of or relating to the Contract Documents. Communications by and with Engineer's consultants shall be through Engineer with Owner copied on all written communications. Communications by and with Subcontractors and Suppliers shall be through

Contractor. Communications by and with Owner's Separate Contractors shall be through Owner.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint a qualified, registered engineer to replace Engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

- A. Subject to Owner's right to withhold payment set forth in the Contract Documents, Owner shall make payments to Contractor when they are due as provided in the Agreement.

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- B. Notwithstanding anything to the contrary in the Contract Documents, all Change Orders must comply with the *Tex. Water Code § 49.273 and 30 Tex. Admin. Code § 293.81*.

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

- A. In accordance with *Tex. Bus. & Comm. Code § 56.054(e)*, upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

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

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth herein. Notwithstanding anything to the contrary in the Contract Documents, Engineer's responsibilities shall be limited to:
 - (1) Visits to the Site at intervals appropriate to the progress of the Work;
 - (2) Clarifications and interpretations of the Drawings and Specifications;
 - (3) Authorize variations in Work pursuant to Change Order to be signed by Owner;
 - (4) Reject defective, incomplete and/or non-conforming Work;
 - (5) Review of shop drawings;
 - (6) Process change orders;
 - (7) Process Applications for Payment; and
 - (8) Decisions with respect to disputes between Owner and Contractor, as set forth in the Contract Documents.

10.02 *Visits to Site*

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

confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

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

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to Change Orders is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

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

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

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

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. Any such amendment, if it is intended to adjust either the Contract Time or Contract Price, shall be effective only if and when it is in writing and executed as a written Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times. All Change Orders must comply with Tex. Water Code § 49.273 and 30 Tex. Admin. Code § 293.81.

- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer. Such amendment(s) must be set forth in a Change Order.
- D. A change in the Contract Price or the Contract Times (including any Milestones made a part of the Contract Times requirements) shall be accomplished only by a written amendment, a written Change Order, or a written Work Change Directive issued in accordance with the requirements of the Contract Documents. Accordingly, no course of conduct or dealings between the parties, no expressed or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alterations or additions to the Work shall be the basis of any claim for an increase in any amount due under the Contract Documents or a change in any time period provided for in the Contract Documents.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.
- C. Except as otherwise agreed to by the parties and conspicuously and unambiguously stated on the face of the respective Change Order, agreements on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Price and Contract Times. In the event a Change Order increases the Contract Price, the Contractor shall include the Work covered by such Change Order in applications for payment as if such Work were originally part of the Contract Documents.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. Contractor shall submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive.

11.04 *Field Orders*

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

11.05 *Owner-Authorized Changes in the Work*

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

11.06 *Unauthorized Changes in the Work*

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

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim by the Contractor for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead, general supervision, and administration and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead, general supervision, and administration and profit will be determined as follows:
 - 1. A mutually acceptable fixed fee; or
 - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. The Contractor's Fee shall be five percent (5%);
 - b. Any Subcontractor's overhead and profit shall be limited to fifteen percent (15%). .

11.08 *Change of Contract Times*

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

11.09 *Change Proposals*

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

Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. *Change Proposal Procedures*

1. *Submittal*: Contractor shall submit each Change Proposal to Engineer promptly, but in not event later than 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data*: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

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

3. *Engineer's Initial Review*: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal*: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
5. *Binding Decision*: Engineer's decision is final and binding upon Contractor, unless Contractor appeals the decision by filing a Claim under Article 12. Engineer's decision will be final and binding upon Owner, unless Owner notifies Engineer and Contractor in writing within fifteen (15) days after receipt of Engineer's decision that Owner has denied such Change Proposal. In such event, Owner's denial shall be final and binding upon Contractor, unless Contractor files a Claim under Article 12 within fifteen (15) days after receipt of Owner's denial.

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

11.10 *Notification to Surety*

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

ARTICLE 12—CLAIMS

12.01 *Claims*

- A. *Claims Process*: The following disputes asserted by Contractor against Owner are subject to the Claims process set forth in this article:
 - 1. Appeals by Contractor of Engineer's decisions regarding Change Proposals;
 - 2. *Intentionally Deleted*
 - 3. Disputes seeking a resolution of a contractual issue that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 - 4. Subject to the waiver provisions of Paragraph 15.07, any dispute asserted by Contractor against Owner arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim*: Contractor shall deliver its Claim to Owner promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. Contractor shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the Contractor. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution*: Owner shall review the Claim thoroughly, giving full consideration to its merits. The Owner and Contractor shall seek to resolve the Claim through the exchange of information and direct negotiations. The Owner and Contractor may extend the time for

resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. Except as otherwise agreed by the Owner and Contractor, the agreement to mediate shall not stay the Claim submittal and response process.
 2. *Intentionally Deleted.*
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If Owner approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the Contractor invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful or if it appears to the Owner, in its sole discretion, that such Claim cannot be resolved informally by the parties, Owner, may deny it by giving written notice of denial to Contractor. Except as otherwise agreed in writing by the parties, if a Claim has not been approved or denied by the Owner within 60 days after initiation of the Claim, such Claim shall be deemed denied by Owner for purposes of the Contractor initiating the procedure set forth in Article 17 for the final resolution of disputes. A denial of the Claim shall be a condition precedent to Contractor initiating the procedure as set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.
- H. No Claim by Contractor against Owner for an adjustment in Contract Price or Contract Times (or Milestones) shall be valid if not submitted in accordance with Article 11 and this Article 12.

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

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those

additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those prevailing in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner in writing. Contractor shall, at all times comply with the requirements of prevailing wage rates/requirements of *Tex. Gov't. Code § 2258* and shall pay not less than the wage schedule in compliance with same.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01. Contractor shall, at all times ensure that its Subcontractors comply with the requirements of prevailing wage rates/requirements of *Tex. Gov't. Code § 2258* and shall ensure such Subcontractors pay not less than the wage schedule in compliance with same.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
 5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

- b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
- c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Contract Documents. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations, except to the extent Owner and District is exempt under *Tex. Admin. Code § 3.291*, the *Texas Tax Code Ch. 151*, and/or the Internal Revenue Code.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with

Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of or breach of contract by 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 will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents and/or *Tex. Govt' Code §2253* to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
- 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 6. Expenses incurred in preparing and advancing Claims.
- 7. Overtime wages or salaries (and fringe benefits related thereto) incurred by the Contractor as a result of the Contractor's unexcused failure to perform the Work in accordance with the Project Schedule, unless the Contractor has received the Owner's prior consent to incur such overtime.
- 8. Fines, penalties, sanctions or impositions assessed or imposed by any authority having jurisdiction, instrumentality or tribunal arising from the fault of Contractor or its Subcontractors or any tier.
- 9. Costs incurred by Contractor resulting from the failure of Contractor or its Subcontractors to coordinate their Work with that of Owner and its Separate Contractors, if any, after

agreeing to the schedules therefor, or failure of Contractor to comply with directives of Owner not in conflict with said schedules.

10. Any cost or portion thereof that duplicates in whole or in part any other cost or portion thereof that has been charged to or has been paid separately by Owner.
11. Sales and use taxes from which District is exempt under *Tex. Admin. Code § 3.291, Tex. Tax Code Ch. 151*, and/or the Internal Revenue Code.
12. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. Contractor's Fee

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

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

13.02 Allowances

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

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

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement, subject to *Tex. Water Code §49.273*.
 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.

3. Adjusted unit prices will apply to all units of that item.

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

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

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

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's and/or the District's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

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

diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

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

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

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

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

15.01 *Progress Payments*

- A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer and Owner for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 - 2. *Intentionally Deleted.*
 - 3. Beginning with the first Application for Payment, each Application shall include a Conditional Waiver and Release on Progress Payment, executed by Contractor and each Subcontractor for the Project Payment being made. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor or an Unconditional Waiver and Release on Progress Payment stating that all previous progress payments received on account of the Work have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 - 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement

C. Review of Applications

1. Engineer will, within ten (10) days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work; or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto; or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work; or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner on account of the Work; or

- e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
- 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

- 1. Pursuant to *Texas Gov't Code § 2251*, thirty (30) days after presentation of the Application for Payment to Owner (as recommended for payment by Engineer) the Owner shall make payment to the Contractor in the amount recommended by Engineer. For purposes of *Tex. Gov't. Code § 2251.021(2)* and (3), the "date of performance/receipt of invoice" is the date the Engineer approves and provides recommendations with respect to the Application for Payment. No Application for Payment is complete unless it fully reflects all required modifications, attaches all required supporting documentation, and is recommended for payment by the Engineer. Contractor shall make payment to Subcontractors in the appropriate amounts not later than the tenth (10th) day after the date Contractor receives payment or otherwise in accordance with *Tex. Gov't. Code § 2251.022*. *Tex. Gov't. Code § 2251* shall govern amounts recommended and approved by Owner, but remaining unpaid and which are overdue pursuant to said statute.

E. *Reductions in Payment by Owner*

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

- c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. Compensation for Engineer for overtime charges for additional services performed as a result of the fault or inattention of Contractor or its Subcontractors and suppliers including but not limited to additional reviews of submittals and substitutions, re-inspections, and inspections related to or caused by repair, remediation, and/or correction of defective, non-conforming or incomplete Work;
 - m. Costs for the reperformance of any tests made necessary to ensure that defective, non-conforming or incomplete Work has been repaired, remediated, and/or corrected; or.
 - n. Other items that entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
- F. Notwithstanding anything contained in the Contract Documents to the contrary, Contractor and all Subcontractors shall solely look to the Owner for payment of all sums due hereunder.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects,

and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

- B. Contractor shall defend or shall cause its surety to defend Owner and the District, at Contractor's or its surety's sole cost and expense, against any actions, lawsuits, or proceedings brought against Owner or the District as a result of liens filed against the Site or otherwise, or claims filed against the Payment Bond except to the extent that such liens or claims arise due to Owner wrongfully withholding payment. Contractor shall indemnify or shall cause its surety to indemnify, defend, and hold harmless Owner against any such liens or claims for lien and/or payment and agrees to pay or shall cause its surety to pay any judgment or lien against Owner or the property against which such liens are asserted resulting from any such actions, lawsuits or proceedings brought to enforce any such lien or claim.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Provided, however, that Substantial Completion shall not be achieved until all required permits, authorizations and approvals have been granted by the required governmental authorities. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in

writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly complete all work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by the following items (in addition to this listed in Paragraph 15.06.A.1 above):
 - a. all documentation called for in the Contract Documents including Project Record Documents and approval and confirmation of completion from authorities having jurisdiction;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims;
 - e. all operating manuals and other operating maintenance data including instructions to Owner;
 - f. copies of all required warranties and Maintenance Bonds;
 - g. keys (if necessary);
 - h. a duly executed Unconditional Waiver and Release on Progress Payment from the Contractor on the Texas statutory form that waives all liens or claims for payment for the Work covered by all previous Applications for Payment paid by Owner and a Conditional Waiver and Release of Lien on Final Payment waiving the Contractor's constitutional and statutory mechanic's lien or any other claim for payment, conditioned upon receipt of payment and a bills paid affidavit which conforms to the provisions of *Tex. Prop. Code § 53.085*;
 - i. duly executed Unconditional Waiver and Release on Progress Payment documents from all Subcontractors on the Texas statutory form that waives all liens or claims for payment for the Work covered by all previous Applications for Payment paid by Owner and Conditional Waiver and Release on Final Payment documents from each Subcontractor, waiving, upon receipt of Final Payment, any and all mechanic's liens or any other claim for payment;
 - j. bills paid affidavit from Contractor which conforms to the provisions of *Tex. Prop. Code § 53.085*; and
 - k. all other close-out procedures in the Contract Documents have been satisfied by Contractor.

3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, as required by the Contract Documents against the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments.) Pursuant to *Tex. Gov't Code § 2251*, Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment (with all required documentation) from Engineer.

15.07 Waiver of Claims

- A. The making of final payment, will not constitute a waiver by Owner of claims or rights against Contractor.

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

15.08 *Correction Period*

- A. If within two years 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 any specific provision of the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

Prior to issuance of Final Acceptance, a Two-Year Maintenance Bond issued for one-hundred percent (100%) of the Contract Price shall be provided by Contractor to Owner and District.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect, Contractor does not promptly comply with the terms of Owner's written instructions within ten (10 days) after Owner's request, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all 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).
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.
- G. Nothing contained herein or in the Contract Documents shall waive or limit any of Owner's rights under *Tex. Civ. Prac. & Rem. Code § 16.009* or other applicable Laws and Regulations.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

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

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated;
 - 2. enforce the rights available to Owner under any applicable performance bond; and
 - 3. under sealed bids received in accordance with Texas Law, let the contract for completion of the Work under substantially similar terms. If the contract price under the new contract increases above the Contract Price under this Agreement, all such increased costs shall be payable by Contractor and/or its surety to Owner. Owner shall not owe any money to Contractor as a result of any cost savings Owner may realize as a result of such termination.

- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid, only to the extent allowed under *Tex. Local Gov't Code § 271.153(b)*, for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. actual costs incurred as a direct result of the termination as demonstrated by Contractor.

- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.
- C. Upon receipt of a notice of termination for convenience, Contractor shall immediately, in accordance with instructions from Owner, proceed with performance of the following duties regardless of delay in determining or adjusting amounts due under this Paragraph 16.03:
 - 1. Cease operations as specified in the notice:
 - 2. Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities except as necessary to complete continued portions of the Contract;
 - 3. Terminate all subcontracts and orders to the extent they relate to the Work terminated;
 - 4. Proceed to complete the performance of the Work not terminated; and
 - 5. Take actions that may be necessary, or that Owner may direct, for the protection and preservation of the terminated Work.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails to pay Contractor any sum finally determined to be due in accordance with *Tex. Gov't Code 2251* then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03 to the extent allowed under *Tex. Local Gov't Code § 271.153(b)*.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. All disputes shall be resolved by litigation in a court of competent jurisdiction in Collin County, Texas.
- B. *Limitation on Damages.* Notwithstanding anything contained herein or elsewhere in the Contract Documents to the contrary, the total amount of money recoverable from the Owner and the District on a claim for breach of contract is limited as set forth under Texas law. An award of damages may not include consequential damages (except as allowed pursuant to

Tex. Local Gov't Code § 271.153(b)(1)), exemplary damages, or damages for unabsorbed home office overhead. Nothing in this Agreement shall be construed as a waiver of sovereign immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Owner and District. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice it will be deemed to have been validly given only if delivered:
 - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business; or
 - 2. by registered or certified mail, postage prepaid, to the recipient's place of business.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

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

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

- A. Contractor may not assign this Agreement, and more specifically may not assign this Agreement or the receivable under this Agreement, to a factoring company, without the express written consent of the Owner. If Contractor attempts to make such an assignment without such consent, Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner may, without consent of the Contractor, assign the Contract to any assignee, including an institutional lender, so long as the assignee is financially capable of paying for the Work or Owner shall remain responsible for the obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

18.09 *Successors and Assigns*

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

18.10 *Headings*

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

18.11 *Third Party Beneficiary*

- A. The District shall be a third-party beneficiary of the Contract Documents and shall have the right to directly enforce its rights under the Contract Documents, including, but not limited to, any actions for indemnity and breach of warranty, express or implied. Notwithstanding the District's status as a third party beneficiary, the District shall have no obligations and no financial responsibility to Contractor arising from this Agreement or the Contract Documents. All such obligations and responsibility shall remain with Owner exclusively.

18.12 *Owner's Special Conditions*

- A. Owner hereby incorporates **Exhibit C** - Owner's Special Conditions into this Agreement and Contractor shall comply with all requirements contained therein.

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF _____}

KNOW ALL MEN BY THESE PRESENTS: That _____

_____ of the City of _____
County of _____, and State of _____, as

principal, and _____
authorized under the laws of the State of Texas to act as surety on bonds for principals, are

held and firmly bound unto _____ (Owner),

in the penal sum of _____ Dollars (\$ _____)
for the payment whereof, the said principal and surety bind themselves, and their heirs,
administrators, executors, successors, and assigns, jointly and severally, by the presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner,
dated the _____ day of _____, 20____, to construct:

WATER SUPPLY PLANT #2

serving

The City of Carls Corner

Hill County, Texas

which contract is hereby referred to and made a part hereof as fully and to the same extent as if
copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal
shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform
all and singular the covenants, conditions and agreements in and by said contract agreed and
covenanted by the Principal to be observed and performed, and according to the true intent and
meaning of said Contract and the Plans and Specifications hereto annexed, then this obligation shall
be void; otherwise to remain in full force and effect;

“PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of
(Article 5160 for Public Work) (Article 5472d for Private Work)* of the Revised Civil Statutes of Texas as
amended and all liabilities on this bond shall be determined in accordance with the provisions of said
Article to the same extent as if it were copied at length herein.”

Surety, for value received, stipulates and agrees that no change, extension of time, alteration
or addition to the terms of the contract, or to the work performed thereunder, or the plans,

specifications, or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it doesn't hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this

instrument this _____ day of _____, 20_____.

_____	_____
Principal	Surety
By _____	By _____
Title _____	Title _____
Address _____	Address _____
_____	_____
_____	_____

The name and address of the Resident Agent of Surety is:

_____	_____
_____	_____

PAYMENT BOND

STATE OF TEXAS
COUNTY OF _____}

KNOW ALL MEN BY THESE PRESENTS: That _____

_____ of the City of _____
County of _____, and State of _____, as

principal, and _____
authorized under the laws of the State of Texas to act as surety on bonds for principals,

are held and firmly bound unto _____ (Owner),

in the penal sum of _____ Dollars (\$_____)
for the payment whereof, the said Principal and Surety bind themselves and their heirs,
administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner,
dated the _____ day of _____, 20____, to construct

WATER SUPPLY PLANT #2

serving

The City of Carls Corner

Hill County, Texas

which contract is hereby referred to and made a part hereof as fully and to the same extent as if
copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal
shall pay all claimants supplying labor or material to him or a subcontractor in the prosecution of the
work provided for in said contract, then, this obligation shall be void; otherwise, to remain in full force
and effect;

PROVIDED, HOWEVER, that this bond is executed the pursuant to the provisions of Article
5160 of the Revised Civil Statues of Texas as amended and all liabilities on this bond shall be
determined in accordance with the provisions of said Article to the same extent as if it were copied at
length herein.

Surety, for the value received, stipulates and agree that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed
this instrument this _____ day of _____, 20_____.

Principal	Surety
By _____	By _____
Title _____	Title _____
Address _____	Address _____
_____	_____
_____	_____

The name and address of the Resident Agent of Surety is:

MAINTENANCE BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS:

That _____
(NAME OF CONTRACTOR)

as principal, and _____
(NAME OF SURETY)

a corporation organized under the laws of _____

and _____
as sureties, do hereby expressly acknowledge themselves to be held and bound to pay unto the

(NAME OF THE OWNER)

a municipal corporation, the sum of

(100% OF TOTAL CONTRACT PRICE)

Dollars (\$ _____) for the payment of which sum well and truly to be made
unto

said _____
(NAME OF OWNER)

and its successors, said principal and sureties do hereby bind themselves, their assigns,
and successors jointly and severally.

This obligation is conditioned, however, that, whereas said

(NAME OF CONTRACTOR)

has this date entered into a written contract with said

(NAME OF OWNER)

to build and construct:

WATER SUPPLY PLANT #2

serving

The City of Carls Corner

Hill County, Texas

(DESCRIPTION OF PROJECT AS IT APPEARS ON COVER OF CONTRACT DOCUMENTS)

which contract and the plans and specifications therein mentioned and adopted by the

(NAME OF OWNER)

are hereby expressly made a part thereof as though the same were written and embodied herein.

WHEREAS, under the specifications and contract, it is provided that the Contractor shall maintain and keep in good repair the work constructed and/or equipment furnished by him as contemplated by the plans, specifications, drawings, etc., and perform for a period of

TWO (2) years. [NOTE: Period to be stated in Supplementary Conditions.] If not so stated, the period shall be one (1) years from the date of acceptance as shown on the "Certificate of Completion" as issued by the Engineer, or the date of final payment by the Owner, whichever bears the later date, all necessary repairs, reconstruction and renewal of any part of said construction, and to furnish the labor and materials to make good and repair any defective condition growing out of or on account of the breakage or failure of any substance or the improper function of any part of the construction work. The Contractor shall reimburse the Owner costs of all Engineering and special services required to be furnished by the Owner which are directly attributable to the restoration of the constructed work. Said maintenance contemplates the complete restoration of the constructed work to a functional use during the said period as set forth above. It is being understood that the purpose of this section is to require the correction of all defective conditions resulting from materials furnished or work and labor performed by the said Contractor under the conditions prescribed by the plans and specifications; and in case the said Contractor shall fail or refuse to perform as provided within ten (10) days after proper written notifications have been furnished to him by the Owner, it is agreed that the Owner may do said work and supply such materials and the said Contractor and Sureties herein shall be subject to the liquidated damages mentioned in said Contract for each calendar day's failure on its part to comply with the terms of the said provision of said Contract and this Maintenance Bond.

NOW THEREFORE, if the said Contractor shall keep and perform its said agreement to maintain said work and keep the same in good repair for the said maintenance period as provided above, then these presents shall be null and void and have no further effect, but if default shall be made by the said Contractor in the performance of its contract to do so, maintain and repair damages in the premises, as provided, and it is further understood and agreed that this obligation shall be continuing against the principal and sureties hereon, and that successive recoveries may be had hereon for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected from any clause during said time.

IN WITNESS WHEREOF, the said _____
(NAME OF CONTRACTOR)

(NAME OF CONTRACTOR'S AUTHORIZED SIGNER)

and the said _____
(NAME OF SURETY)

as caused these presents to be executed by its

_____ and the said _____
(ATTORNEY-IN-FACT OR OFFICIAL) (ATTORNEY-IN-FACT OR OFFICIAL)

as hereto set his hand this the _____ day of _____, 20_____.

Date of Maintenance Bond must not be prior to date of Contract.

SURETY

PRINCIPAL

By _____

By _____

ATTEST:

SECRETARY
By _____
SURETY

NOTE: Power of Attorney must be attached.

AFFIDAVIT OF BILLS PAID

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____

Party to that certain Contract entered into on the _____ day of _____, 20____,

between **City of Carls Corner** (Owner) and _____ for the construction and completion of certain improvements upon the following premises described, to wit:**WATER SUPPLY PLANT #2**

serving

The City of Carls Corner

Hill County, Texas

Said party being by me duly sworn states upon oath that the said improvements have been erected and completed in full compliance with the above referred to Contract and the agreed plans and specifications, therefore.

Deponent further states that he has paid all bills and claims for materials furnished and labor performed on said Contract and that there are no outstanding unpaid bills or legal claims for labor performed or materials furnished upon said job.

This affidavit is being made by the undersigned realizing that it is in reliance upon the truthfulness of the statements contained therein that final and full settlement of the balance due on said Contract is being made, and in consideration of the disbursement of funds by City of Carls Corner Estates, dependent expressly waives and releases all liens, claims and rights to assert a lien on said premises and agrees to indemnity and hold the City of Carls Corner, safe and harmless from and against all losses, fees and attorney fees, arising out of or in any way relating to claims for unpaid labor or materials used or associated with construction of improvements on the above-described premises.

ATTEST, SEAL: (if a corporation)

WITNESS: (if not a corporation)

Name of Contractor

By: _____

Name / Title

Notary
(SEAL)

Notary Public in and for the State of Texas

Notary

My Commission Expires: _____

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

SC-1.01 DEFINED TERMS:

The word "**OWNER**" in these documents shall be understood as referring to:

CITY OF CARLS CORNER, 500 North Cornelius Road, Carls Corner, TX 76645

The word "**ENGINEER**" in these documents shall be understood as referring to:

WASTELINE ENGINEERING, INC., 5068 E Interstate 20 Svc Rd S, Willow Park, TX 76087

Engineer of the Owner, or such other Engineer, as may be authorized by the Owner to act in any particular position.

The word "**CONTRACTOR**" in these documents shall be understood as referring to the person, firm or corporation with whom the Owner has executed the contract or agreement.

SC-2.02 COPIES OF DOCUMENTS:

Amend the first sentence in Paragraph 2.02.A. to the following:

"Owner shall furnish to Contractor one fully signed counterpart of the Agreement and one copy in electronic portable document format (PDF)."

SC-2.05 ACCEPTANCE OF SCHEDULES:

Amend the first sentence of Paragraph 2.05.A., by adding the following language at the beginning of the sentence:

"If requested by Owner, Engineer, or Contractor,".

SC-4.05 DELAYS IN CONTRACTOR'S PROGRESS:

Insert the following after Paragraph 4.05.C.4.:

5. Weather-Related Delays
 - a. If "abnormal weather conditions" as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Time, such request must be documented by data substantiating each of the following: (1) that weather conditions were abnormal for the period of time in

which the delay occurred, (2) that such weather conditions could not have been reasonably anticipated, and (3) that such weather conditions had an adverse effect on the Work as scheduled.

- b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:
 - 1) Every workday on which one or more of the following conditions exist will be considered a "bad weather day":
 - i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals two inches (2") of precipitation (as rain equivalent), based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this Section SC-4.05.C by reference.
 - ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: 20 degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: 110 degrees Fahrenheit.
 - 2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by National Weather Service weather monitoring station at the nearest such station.
 - 3) Contractor shall anticipate the number of foreseeable bad weather days per month indicated in the table in Exhibit A – Foreseeable Bad Weather Days.
 - 4) In each month, every bad weather day exceeding the number of foreseeable bad weather days established in the table in Exhibit A – Foreseeable Bad Weather Days will be considered as "abnormal weather conditions." The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities thus delayed were on Contractor's then-current Progress Schedule's critical path for the Project.

SC-5.02 USE OF SITE and OTHER AREAS:

Insert the following to the end of Paragraph 5.02.B.:

"All excavated material unfit for backfill or surplus to that used, waste materials

accumulated on the job, and any material surplus to that needed in the prosecution of the work shall be removed from the site by the Contractor and disposed of at his expense. The Contractor shall indemnify and save harmless the Owner, or all of its officers, agents, and employees from all suits, actions, or claims of any character resulting from his arrangements for the disposal of spoil."

SC-6.01 PERFORMANCE, PAYMENT, and OTHER BONDS:

Add the following new paragraphs immediately after Paragraph 6.01.H.:

"6.01.I. All bonds shall be executed by sureties authorized to do business in the State of Texas having sufficient capital, surplus, and retained earnings in relation to the Contract Price for the work to be performed under the Contract Documents."

"6.01.J. The Contractor shall also furnish a Maintenance Bond in an amount at least equal to the Contract Price. The Maintenance Bond shall remain in force for a period of **two (2) years** after the date of final acceptance of the work by the Owner.

"6.01.K. All bonds shall be executed by sureties duly licensed or approved non-admitted carriers and shall comply with all applicable State of Texas laws and requirements of duly constituted insurance regulatory authorities having sufficient capital, surplus, and retained earnings in relation to the Contract Price for the work to be performed under the Contract Documents."

SC-6.02 INSURANCE – GENERAL PROVISIONS:

Add the following new paragraph immediately after Paragraph 6.02.B.:

1. "Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance provided by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects within the last 12 months."

SC-6.03 CONTRACTOR'S INSURANCE:

The limits of liability and the coverage for the insurance required by Paragraph 6.03 shall provide the minimum liability limits and coverage under 6.03.A.1 through 6.03.B.5 as follows:

Liability Limits:

- | | | |
|-----|---|-------------|
| (1) | State: | Statutory |
| (2) | Applicable Federal (e.g. Longshoreman's): | Statutory |
| (3) | Employer' Liability: | \$1,000,000 |

Liability Limits:

(1) Bodily Injury (including completed operations and products liability):	
\$1,000,000	Each Occurrence
\$2,000,000	Annual Aggregate
Property Damage:	
\$1,000,000	Each Occurrence
\$1,000,000	Annual Aggregate
(2) Property Damage liability insurance will provide Explosion, Collapse and Underground coverage where applicable.	
(3) Personal Injury, with employment exclusion deleted:	
\$1,000,000	Annual Aggregate

Liability Limits:

(1) Bodily Injury:	
\$1,000,000	Each Person
\$1,000,000	Each Occurrence
(2) Property Damage:	
\$1,000,000	Each Occurrence

The Contractual Liability required by Paragraph 6.03 shall provide coverage for not less than the following amounts:

(1) Bodily Injury:	
\$1,000,000	Each Occurrence
(2) Property Damage:	
\$1,000,000	Each Occurrence
\$1,000,000	Each Occurrence

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

"6.03.D. Contractor shall obtain, pay for and maintain an excess liability insurance policy during the contract term, insuring Contractor for an amount of not less than \$3,000,000 combined single limit bodily injury and property damage liability insurance,

including death, in excess of the primary coverage required hereinabove, ***Owner and Engineer shall be named as additional insureds on the face of the policy.***"

SC-7.10 TAXES:

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

"B. Owner is exempt from payment of sales and compensating use taxes of the State of Texas and of cities and counties thereof on all materials to be incorporated into the Work.

1. Owner will furnish the required certificates of tax exemption to Contract for use in the purchase of supplies and materials to be incorporated into the Work.
2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work."

SC-8.02 COORDINATION:

Add the following new paragraphs immediately after Paragraph 8.02.B.:

"8.02.C. The Contractor shall schedule and coordinate his work so that there is the minimum of interference and conflict with the work of other Contractors or the Owner's personnel."

"8.02.D. The Contractor shall cooperate with others in all reasonable and proper ways to assure the steady progress of his and other's work. In case of any conflicts, the Engineer shall determine the responsibility and priority of the work and his decision shall be final."

SC-14.02 TESTS, INSPECTIONS, and APPROVALS:

Add the following new paragraphs immediately after paragraph 14.02.F.:

"14.02.G. During the progress of the work, all materials, equipment and workmanship shall be subject to such inspections and tests as will ensure conformance with the Contract Requirements."

"14.02.H. Inspections and tests as required will be paid for by the Owner unless otherwise specified. However, the Contractor shall furnish at his expense all necessary specimens and samples for testing. Any test results not meeting the specifications will require additional tests and inspections paid for by the Contractor. The Engineer will determine the additional testing and extra inspection required to ensure conformance with the Contract."

"14.02.I. Inspectors will be authorized to inspect all work done and to be done and all materials furnished. Such inspection may extend to all or any part of the work, and the preparation or manufacturing of the materials to be used or equipment to be installed. An inspector may be stationed on the work to report to the Owner as to the progress of the work and the manner in which it is being performed, to report any evidence that the materials being furnished or work being performed by the Contractor fails to fulfill the requirements of the Contract Documents, and to call the attention of the Contractor to any such failure or other infringements."

"Such inspection or lack of inspection will not relieve the Contractor from any obligation to perform the work in accordance with the requirements of the Contract Documents. In case of any dispute arising between the Contractor and the Inspector as to the materials or equipment furnished or the manner of performing the work, the Inspector will have authority to reject materials or equipment or to suspend work until the question at issue can be referred to and be decided by the Owner."

"The Inspector will not, however, be authorized to revoke, alter, enlarge, or release any requirement of these Contract Documents, nor to approve or accept any portion or section of the work, nor to issue any instructions contrary to the requirements of the Contract Documents. He will in no case act as superintendent or foreman or perform any other duties for the Contractor, or interfere with the management or operation of the work."

"The Inspector will not accept from the Contractor any compensation in any form for performing any duties. The Contractor shall regard and obey the directions and instructions of the Inspector when the same are consistent with the obligations of the Contract Documents, provided, however, should the Contractor object to any orders or instructions of the Inspector, the Contractor may within six days make written appeal to the Owner for his decision on the matter in controversy."

SC-14.07 OWNER MAY CORRECT DEFECTIVE WORK:

Add the following new paragraphs immediately after paragraph 14.07.D.:

"14.07.E. The Contractor shall remedy within 10 days after written notification any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of two (2) years from the date of final acceptance of the work, as a part of the performance of the General Guarantee. The two (2) year guarantee shall be considered to be an integral part of the work and fully covered."

"14.07.F. Neither the final certificate of payment nor any partial or entire occupancy of the premises by the Owner nor any provisions in the Contract Documents shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of his responsibilities or obligations of the General Guarantee."

SC-15.01 PROGRESS PAYMENTS:

In Paragraph 15.01.C.1, change “10 days” to “10 business days.”

In Paragraph 15.01.D.1, change “Ten days” to “Ten business days.”

SC-15.03 SUBSTANTIAL COMPLETION:

Add the following Paragraph 15.03.G.:

“For this project, **construction completion** by the Contractor shall be following completion of the construction and submittal to the Engineer of all documents required by these specifications. **Final completion** of the project shall be upon the acceptance of the construction by the Owner and the Engineer and approval to place same in use.”

MEASUREMENT AND PAYMENT**1.0 GENERAL****1.1 SECTION INCLUDES**

- A. Procedures for measurement and payment plus conditions for nonconformance assessment and nonpayment for rejected Products.

1.2 AUTHORITY

- A. Measurement methods delineated in Specifications sections are intended to complement criteria of this Section. In event of conflict, requirements of the Specification shall govern.
- B. Engineer shall take all measurements and compute quantities accordingly.
- C. Assist by providing necessary equipment, workers, and survey personnel.
- D. Measurement and Payment paragraphs are included only in those Specification sections where direct payment will be made. Include costs in total bid price for those specification sections that do not contain Measurement and Payment paragraphs.

1.3 UNIT QUANTITIES SPECIFIED

- A. Quantity and measurement estimates stated in the Agreement are for contract purposes only. Quantities and measurements supplied or placed in the Work and verified by Engineer will determine payment as stated in Article 9 of the General Conditions.
- B. When actual work requires greater or lesser quantities than those quantities indicated in Section 00410 – Bid Form, provide required quantities at Unit Prices contracted, except as otherwise stated in Article 9 of the General Conditions.

1.4 MEASUREMENT OF QUANTITIES

- A. Measurement by Weight. Reinforcing steel, rolled or formed steel, or other metal shapes are measured by CRSI or AISC Manual of Steel Construction weights. Welded assemblies are measured by CRSI or AISC Manual of Steel Construction or scale weights.
- B. Measurement by Volume:
 - 1. Stockpiles: Measured by cubic dimensions using mean length, width, and height or thickness.
 - 2. Excavation and Embankment Materials: Measured by cubic dimension

using average end area method.

- C. Measurement by Area: Measured by square dimension using mean length and width or radius.
- D. Linear Measurement: Measured by linear dimension, at item centerline or mean chord.
- E. Stipulated Price Measurement: By unit designated in the Agreement.
- F. Other: Items measured by weight, volume, area or linear means or combination, as appropriate, as completed item or unit of the Work.
- G. Measurement by Each: Measured by each instance or item provided.
- H. Measurement by Lump Sum: Measured includes all associated work.

1.5 PAYMENT

- A. Payment includes full compensation for all required supervision, labor, products, tools, equipment, plant, transportation, services, and incidentals; and erection, application, or Installation of an item of the Work; and Contractor's overhead and profit.
- B. Total compensation for required Unit Price work shall be included in Unit Price bid in Section 00410 – Bid Form. Claims for payment as Unit Price work but not specifically covered in the list of Unit Prices contained in Section 00410 – Bid Form, will not be accepted.
- C. Interim payments for stored materials will be made only for materials to be incorporated under items covered in Unit Prices, unless disallowed in Document 0800 – Supplementary Conditions.
- D. Progress payments will be based on Engineer's observations and evaluations of quantities incorporated in the Work multiplied by Unit Price.
- E. Final payment for work governed by Unit Prices will be made on the basis of actual measurements and quantities determined by Engineer multiplied by the Unit Price for work which is incorporated in or made necessary by the Work.

1.6 NONCONFORMANCE ASSESSMENT

- A. Remove and replace work, or portions of the Work, not conforming to the Contract Documents.
- B. When it is not practical to remove and replace work, the Engineer will direct one of the following remedies:

1. Nonconforming work will remain as is, but Unit Price will be adjusted lower at discretion of the Engineer.
 2. Nonconforming work will be modified as authorized by the Engineer, and the Unit Price will be adjusted lower at the discretion of the Engineer, when modified work is deemed less suitable than specified.
- C. Specification sections may modify the above remedies or may identify a specific formula or percentage price reduction.
- D. Authority of the Engineer to assess nonconforming work and identify payment adjustment is final.

1.7 NONPAYMENT FOR REJECTED PRODUCTS

- A. Payment will not be made for any of the following:
1. Products wasted or disposed of in an unacceptable manner.
 2. Products determined as nonconforming before or after placement.
 3. Products not completely unloaded from transporting vehicles.
 4. Products placed beyond lines and levels of required work.
 5. Products remaining on hand after completion of the Work, unless specified otherwise.
 6. Loading, hauling, and disposing of rejected Products.

END OF SECTION

SUBMITTAL PROCEDURES**1.0 GENERAL****1.1 SECTION INCLUDES**

- A. Submittal procedures for:
1. Shop Drawings, Product Data and Samples
 2. Manufacturer's Certificates
 3. Project Record Documents and monthly certification.
 4. Video Recordings
 5. Design Mixes
 6. Approved Products, and Substitution Procedure

1.2 SUBMITTAL PROCEDURES

- A. Scheduling and Handling:
1. Submit Shop Drawings, data and Samples for related components as required by Specifications and Engineer.
 2. Schedule submittals well in advance of need for construction Products. Allow time for delivery of Products after submittal approval.
 3. Develop submittal schedule that allows sufficient time for initial review, correction, resubmission, and final review of all submittals. Allow a minimum of 14 days for initial review. Engineer will review and return submittals to Contractor as expeditiously as possible, but time required for review will vary depending on complexity and quantity of data submitted.
 4. Engineer's review of submittals covers only general conformity to plans, specifications, and dimensions that affect layout. Contractor is responsible for quantity determination. No quantities will be verified by Engineer. Contractor is responsible for errors, omissions, or deviations from contract requirements; review of submittals does not relieve Contractor from the obligation to furnish required items in accordance with plans and specifications.
 5. Submit an adequate number of copies of documents. Upon review of submittals, one (1) copy will be retained by the Engineer; one (1) copy will be presented to the Owner; and all other copies submitted will be returned to the Contractor.
 - a) Drawing size shall be minimum 8-1/2 x 11-inches and maximum of 24 x 36 inches. (11 x 17 preferred under most circumstances)
 - b) Draw details to a minimum scale of 1-1/2 inches equal to 1 foot.
 6. Revise and resubmit submittals as required. Identify all changes made since previous submittal.

-
7. Assume risk for fabricated Products delivered prior to approval. Do not incorporate Products into the work, or include payment for Products in periodic progress payments, until approved by Project Manager.
 8. Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.
- B. Transmittal Form and Numbering:
1. Transmit each submittal to Project Manager with transmittal letter which includes:
 - a) Date and submittal number
 - b) Project title and number
 - c) Names of Contractor, Subcontractor, Supplier, and manufacture
 - d) Identification of product being supplied
 - e) Location of where Product is to be installed (If applicable)
 - f) Applicable Specification section number
 - g) Provide space for Contractor and Engineer review stamps.
 2. Identify deviations from Contract documents clouding submittal drawings. Itemize and detail on separate 8-1/2 by 11-inch sheets entitled "DEVIATIONS FOR _____." When no deviations exist, submit a sheet stating no deviations exist.
 3. Have design deviations signed and sealed by an appropriate design professional, Registered in the State of Texas.
 4. Sequentially number transmittal letters beginning with number one. Use original number for resubmittals with an alphabetic suffix (i.e., 2A for the first resubmittal of submittal 2, or 15C for third resubmittal of submittal 15. etc.). Show only one type of work or Product on each submittal. Mixed submittals will not be accepted.
- C. Contractor's Stamp:
1. **Apply Contractor's stamp certifying that the items have been reviewed in detail by Contractor and that they comply with contract requirements, except as noted by requested variances, prior to submittal to Engineer for review.**
 2. As a minimum, Contractor's Stamp shall include:
 - a) Contractor's name
 - b) Job number
 - c) Submittal number
 - d) Certification statement Contractor has reviewed submittal and it is in compliance with the contract.
-

e) Signature line for Contractor

D. Submittals will be returned with one of the following Responses:

1. "APPROVED" when no response and resubmittal is required.
2. "APPROVED AS CORRECTED" when sufficient information has been supplied to determine that item will be acceptable subject to changes, or exceptions, which will be clearly stated. When exceptions require additional changes, the changes must be submitted for approval. Resubmittal is not required when exceptions require no further changes.
3. "REVISE AND RESUBMIT" when submittal does not contain sufficient information, or when information provided does not meet Contract requirements. Additional data or details requested by Project Manager must be submitted to obtain approval.
4. "REJECTED" when submittal does not meet the specifications, and any corrections or revisions will not bring the submittal into compliance. Contractor must resubmit an entirely new product/manufacturer submittal.

1.3 MANUFACTURER'S CERTIFICATES

- A. When required by Specification sections, submit manufacturer's certificate of compliance for review by Project Manager.
- B. Place Contractor's Stamp on front of certification.
- C. Submit supporting reference data, affidavits, and certifications as appropriate.
- D. Product certificates may be recent of from previous test results but must be acceptable to Project Manager.

1.4 DESIGN MIXES

- A. When required by Specification sections, submit design mixes for review.
- B. Place Contractor's stamp, as specified in this section, on the front of each design mix.
- C. Mark each mix to identify proportions, gradations, and additives for each class and type of mix. Perform tests and certifications within 12 months of the date of the submittal.
- D. Maintain copies of the approved mixes at mixing plant.

2.0 PRODUCTS**2.1 APPROVED PRODUCTS**

- A. Construction products or materials of certain manufacturers of Suppliers designated in Specifications followed by words "or approved equal."
- B. Approval of alternate products not listed in Drawings or Specifications may be obtained through provisions for product options and substitutions in the General Conditions, and by following the submittal procedures herein.

2.2 PRODUCT COMPATIBILITY

- A. To the maximum extent possible, provide Products that are of the same type or function from a single manufacturer, make, or source. Where more than one choice is available, select Product that is compatible with other Products already selected, specified, or in use by the Owner.
- B. Do not mix Products of multiple makes or manufacturers, i.e., all light fixtures shall be from the same manufacturer, etc.
- C. Alternate Products shall be accepted if Products are judged by Engineer (or designated representative assigned to review and approve Submittals) to be equivalent to specified Product, or to offer substantial benefit to the Owner.
- D. The Owner retains the right to accept any Product deemed advantageous to the Owner, and similarly, to reject any product deemed not beneficial to the Owner.

2.3 SUBSTITUTION PROCEDURE

- A. Assemble and provide suitable technical information and specifications, test data, National reference standards, samples, etc. for the proposed Product to aid in determining "equivalency" as related to the approved product.
- B. Follow all Submittal procedures herein outlined, with a notation of the proposed Product being considered for an 'equivalent' item specified or shown on the drawings.
- C. Substitute Products shall be subject to the same review process as the specified Product.

END OF SECTION

TESTING LABORATORY SERVICES**1.0 GENERAL****1.1 SECTION INCLUDES**

- A. Testing laboratory services and Contractor responsibilities related to those services.

1.2 REFERENCES

- A. ASTM C 1077 – Standard Practice for Laboratories Testing Concrete and Concrete Aggregates for Use in Construction and Criteria for Laboratory evaluation.
- B. ASTM D 3740 – Standard practice for Minimum Requirements for Agencies Engaged in the testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction.
- C. ASTM E 329 – Standard Specification for Minimum Requirements for Agencies Engaged in the testing and/or Inspection of Materials Used in Construction.
- D. ISO/TEC Guide 25 – General Requirements for the Competence of Calibration and testing Laboratories.

1.3 SELECTION AND PAYMENT

- A. **The Owner will select, employ, and pay for services of an independent testing laboratory to perform inspection and testing specifically identified in the Specifications sections.**
- B. Employment of a testing laboratory by the Owner shall not relieve Contractor of its obligation to perform work in accordance with requirements of Contract documents.
- C. The Owner will deduct a minimum two-hour charge for testing laboratory time from periodic progress payment when operations requiring testing or inspection are canceled without prior notification.
- D. The Owner will deduct cost of retesting from periodic progress payment whenever failed work is removed, replaced, and retested.

1.4 QUALIFICATION OF LABORATORY

- A. Meet laboratory requirements of ASTM E 329 and applicable requirements of ASTM C 1077 and ASTM D 3740.
- B. Meet ISO/TEC Guide 17025 conditions for accreditation by the American Association for Laboratory Accreditation (A2LA) in specific fields of testing required in individual Specification sections.
- C. If laboratory subcontracts are part of the testing services, such work will be placed with a laboratory complying with the requirements of this section.

1.5 LABORATORY REPORTS

- A. Testing laboratory shall provide and distribute copies of laboratory reports to the distribution list Engineer provides at the pre-construction meeting.
- B. Keep one copy of each laboratory report distributed or faxed at the site field office for duration of the work.
- C. Laboratory will web post, fax and/or email material supplier, Contractor and Engineer reports that indicate failing test results by no later than close of business on the working day following test completion and review.

1.6 LIMITS ON TESTING LABORATORY AUTHORITY

- A. Laboratory may not release, revoke, alter, or enlarge requirements of the Contract
- B. Laboratory may not approve or accept any portion of the work.
- C. Laboratory may not assume Contractor duties.
- D. Laboratory has no authority to stop the work.

1.7 CONTRACTOR RESPONSIBILITIES

- A. Provide safe access to the Work and to manufacturer's facilities for Engineer and for testing laboratory personnel.
- B. Provide testing laboratory with a copy of the Construction Schedule and a copy of each update to Construction Schedule.
- C. Notify Engineer and testing laboratory during normal working hours of the day previous to expected time for operations requiring inspection and testing services. When Contractor fails to make timely prior notification, do not proceed with the operations requiring inspection and testing services.
- D. Notify Engineer 24 hours in advance when a Specification requires presence of Engineer for sampling and testing.
- E. Request and monitor testing as required to provide timely results and to avoid delays to the work. Provide samples to laboratory in sufficient time to allow required tests to be performed in accordance with specified test methods before intended use of the product.
- F. Cooperate with laboratory personnel in collecting samples on site. Provide incidental labor and facilities for safe access to the work to be tested, to obtain and handle samples at site or at source of products to be tested, and to facilitate tests and inspections including storage and curing of test samples.
- G. Make arrangements with laboratory through Engineer. Payment for additional testing will be made in accordance with the General Conditions:
 - 1. Re-testing required for failed tests.
 - 2. Re-testing for nonconforming work.

3. Additional sampling and tests requested beyond specified requirements.
4. Insufficient notification of cancellation of tests for work scheduled but not performed.

2.0 PRODUCTS – Not Used

3.0 EXECUTION

3.1 CONDUCTING TESTING

- A. Conform to laboratory sampling and testing methods specified in individual Specification sections to the latest issues of ASTM standards, TxDOT methods, or other recognized test standards as approved by Engineer.
- B. Requirements of this Section shall also apply to those tests for approval of materials as performed by employed testing laboratories.

END OF SECTION

TEMPORARY EROSION, SEDIMENT AND WATER POLLUTION CONTROL

1.0 DESCRIPTION

This section shall consist of temporary soil erosion sediment and water pollution control measures deemed necessary by the Engineer for the duration of the contract. The temporary measures include, but are not limited to, straw bale dikes, silt fences, sediment basins, fiber mats, jute netting, temporary seeding, straw mulch, asphalt mulch, plastic liners, rubble liners, bailed-hay retards, slope drains and other devices typically used to prevent erosion.

2.0 CONSTRUCTION REQUIREMENTS

The Engineer has the authority to define erodible earth and the authority to limit the surface area of erodible earth material. The Contractor will be required to incorporate temporary pollution control measures to prevent or correct erosion that may develop during construction.

- A. Waste or disposal areas and construction roads shall be located and constructed in a manner that will minimize the amount of sediment entering public streets and storm sewer systems.
- B. All streets shall be cleared as soon as practicable of falsework, piling, debris or other obstruction placed during construction operations that are not part of the finished work.
- C. The Contractor shall take sufficient precautions to prevent pollution with fuels, oils, bitumens, calcium chloride or other harmful materials. He shall conduct and schedule his operations so as to avoid or minimize siltation of streams, storm sewer lines, and adjacent streets.

The erosion control requirements above apply to the following construction items:

- 1. Utility lines;
- 2. Proposed grading; and
- 3. Disposal fields.

3.0 REFERENCE MANUAL

The Contractor shall use the "Storm Water Quality Best Management Practices for Construction Activities Manual" as published by the North Central Texas Council of Governments for acceptable erosion control practices.

4.0 SITE CONTROL

The Contractor is responsible for the prevention of sediment and/or debris from leaving the site. The Contractor shall stabilize construction entrances at all locations used to enter the project. Additionally, the temporary soil erosion sediment and water pollution control measures shall be adjusted as necessary to allow positive drainage in swales and prevent sediment and debris from leaving the construction site.

5.0 PAYMENT

All labor, tools, equipment, and incidentals to complete the work will be paid for under the bid amount item.

END OF SECTION

WASTE MATERIAL DISPOSAL**1.0 GENERAL****1.1 SECTION INCLUDES**

- A. Disposal of waste material and salvageable material.

1.2 SUBMITTALS

- A. Conform to requirements of Section 01330 – Submittal Procedures.
- B. Obtain and submit disposal permits for proposed disposal sites, if required by local ordinances.
- D. Submit copy of written permission from property owner, with description of property, prior to disposal of excess material adjacent to Project. Submit written and signed release from property owner upon completion of disposal work.
- E. Describe waste materials expected to be stored on-site and a description of controls to reduce Pollutants from these materials, including storage practices to minimize exposure of materials to storm water; and spill prevention and response measures in the Project's Storm Water Pollution Prevention Plan (SWPPP), if the project is applicable to this requirement.

2.0 PRODUCTS – Not Used**3.0 EXECUTION****3.1 SALVAGEABLE MATERIAL**

- A. Excavated Material: When indicated on Drawings, load, haul, and deposit excavated material at location or locations shown on Drawings outside limits of Project.
- B. Base, Surface, and Bedding Material: Load shell, gravel, bituminous, or other base and surfacing material designated for salvage into City trucks.
- C. Pipe Culvert: Load culverts designated for salvage into City trucks.
- D. Other Salvageable Materials: Conform to requirements of individual Specification Sections. Coordinate loading and salvageable material on City trucks with Project manager.

3.2 EXCESS MATERIAL

- A. Remove and legally dispose of vegetation, rubble, broken concrete, debris, asphaltic concrete pavement, excess soil, and other materials not designated for salvage from job site.

- B. Excess soil may be deposited on private property adjacent to Project when written permission is obtained from property owner. See paragraph 1.02 D above.
- C. Verify flood plain status of any proposed disposal site. Do not dispose of excavated materials in area designated as within 100-year Flood Hazard Area unless a permit authorizing disposal has been obtained.

END OF SECTION

CONTRACT CLOSEOUT**1.0 GENERAL**

This item includes (the Contractor may ignore items that are not applicable to this project):

- A. Closeout procedures.
 - 1. Submit written certification that the Contract Documents have been reviewed, work has been inspected, and that the work is complete in accordance with the Contract Documents and ready for the Engineer's and Owner's inspection.
 - 2. Provide submittals to the Engineer that are required by governing or other authorities.
 - 3. Submit final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.
- B. Final Cleaning.
 - 1. Execute final cleaning prior to final inspection.
 - 2. Clean interior and exterior glass and surfaces exposed to view; remove temporary labels, stains, and foreign substances, polish transparent and glossy surfaces.
 - 3. Clean equipment and fixtures to a sanitary condition.
 - 4. Clean debris from roofs, gutters, downspouts, and drainage systems.
 - 5. Clean site; sweep paved areas, rake clean landscaped surfaces.
 - 6. Remove waste and surplus materials, rubbish, and construction facilities from the site.
 - 7. Repair, patch, and touch-up marred surfaces to match adjacent finishes.
- C. Adjusting.
 - 1. Adjust operating products and equipment to ensure smooth and unhindered operation.
- D. Project Record Documents.
 - 1. Maintain on site, one set of the following record documents; record actual revisions to the work:
 - a. Contract drawings - red-lined, clean, and neat.
 - b. Contract documents.
 - c. Addenda.
 - d. Change orders and other modifications to the contract.
 - e. Reviewed shop drawings, product data, and samples.
 - 2. Store Record Documents separate from documents used for construction.
 - 3. Record information concurrent with construction progress.
 - 4. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:

- a. Manufacturer's name and product model and number.
 - b. Product substitutions or alternates utilized.
 - c. Changes made by Addenda and Modifications.
5. Record Documents and Shop Drawings: Legibly mark each item to record actual construction including:
 - a. Field changes of dimension and detail.
 - b. Details not on original Contract Drawings.
 - c. Changes made by Addenda and Modifications.
6. Submit documents to Engineer with claim for final Application for Payment.
7. Release of Lien statements from all subcontractors and material suppliers.
8. Consent of Surety to final payment.
- E. Warranties.
 1. Provide duplicate notarized copies.
 2. Execute and assemble documents from subcontractors, suppliers, and manufacturers.
 3. Provide Table of Contents and assemble with metal "D"-ring prong binder in durable plastic presentation cover.
 4. Submit prior to final Application for Payment.
 5. For items of work delayed beyond date of substantial completion, provide updated submittal within ten days after acceptance, listing date of acceptance as start of warranty period.
- F. Spare Parts and Maintenance Materials.
 1. Provide products, spare parts, maintenance, and extra materials in quantities specified in individual specifications sections.
 2. Deliver to project site and place in location as directed; obtain receipt prior to final payment.

END OF SECTION

PART B – MATERIAL and CONSTRUCTION SPECIFICATIONS

The material and construction specifications which apply to this project are the Standard Specifications for Public Works Construction as published by the North Central Texas Council of Governments except where those specifications are in conflict with the Texas Commission on Environmental Quality Chapters 217 and 290.

In case of conflict, Chapters 217 and 290 shall prevail.

STANDARD SPECIFICATIONS

The material and construction specifications which apply to this project are the Standard Specifications for Public Works Construction as published by the North Central Texas Council of Governments in their latest amended form.

These Supplementary Conditions amend or supplement the Standard Specifications. All specifications which are not so amended or supplemented remain in full force and effect.

2.14 FIRE HYDRANTS:

Add the following sentence to the end of Section 2.14.1., General.

“Fire hydrants shall be Mueller Centurian or America Darling.”

6.1.12 WATER FOR CONSTRUCTION:

Delete the last sentence of the paragraph.

6.4 JACKING, BORING OR TUNNELING:

Add the following sentence to the end of Section 6.4.3.a., Construction Methods, General.

“RACI Spacers (insulators) as manufactured by Racon Pipe Corporation or equivalent shall be used in laying carrier pipe in the cased or tunneled section.

6.7.2 SANITARY SEWER:

Add the following paragraphs to Section 6.7., Sanitary Sewer.

“(1) Curves in Alignment.

Sewer lines may be laid with curvatures in the line provided that the radius of curvature is not less than that shown below for the size pipe indicated:

<u>Pipe Size</u>	<u>Minimum Radius (ft)</u>
6"	100
8"	125
10"	150
12"	175

6.7.2 SANITARY SEWER:

Delete the second sentence in Section 6.7.2.c., Tests and Television Inspection, “Visual inspections by photographic means etc...” in its entirety and replace with the following:

“Visual inspection by photographic means shall be performed. A television survey shall be performed as part of the sewer line inspection.”

6.7.2 SANITARY SEWER:

Add the following sentence to the end of Section 6.7.2.i.1., Sanitary Sewer Manholes.

“Watertight, size-on-size resilient connectors allowing for differential settlement shall be used to connect pipe to manholes. Pipe to manhole connects shall conform with ASTM C-923.”

6.7.3 WATER CONDUIT INSTALLATION:

Delete the third sentence in the fourth paragraph in Section 6.7.3.c., Laying Water Conduit, “Deflection of the joint to form curves etc...” in its entirety and replace with the following:

“Deflection of the joint to form curves is permitted provided that the radius of curvature is not less than that shown below for the size pipe indicated:

<u>Pipe Size</u>	<u>Minimum Radius (ft)</u>
6”	160
8”	220
10”	250
12”	300

6/7/3 WATER CONDUIT INSTALLATION:

Section 6.7.3.f., Hydrostatic Test, shall be amended as follows:

The hydrostatic leakage rate for PVC pipe and appurtenances shall not exceed the amount allowed or recommended by formulas in AWWA C-605.

In order to determine the quantity of water lost through leakage in a section of pipe under the required test pressure, the Contractor will be required to measure all water used in the pressure test through an approved meter.

The maximum hydrostatic leakage permitted shall be based on the following formula:

$$L = \frac{N \times D (P)^{1/2}}{7400}$$

Where

- L = allowable leakage, in gallons per hour
- N = number of joints in the length of pipe tested
- D = nominal diameter of pipe, in inches
- P = pressure within the test section, in psi

TCEQ WATER STORAGE TANK GENERAL CONSTRUCTION NOTES

1. The water storage tank must be constructed in accordance with the current Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems 30 Texas Administrative Code (TAC) Chapter 290 Subchapter D. When conflicts are noted with local standards, the more stringent requirement shall be applied. At a minimum, construction for public water systems must always meet TCEQ's "Rules and Regulations for Public Water Systems."
2. All facilities for potable water storage shall be covered and designed, fabricated, erected, tested and disinfected in strict accordance with current American Water Works Association (AWWA) standards and shall be provided with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators on-site, and other appurtenances as specified in these rules.
3. Disinfection of water storage facilities shall be in strict accordance with current AWWA Standard C652-11 or most recent.
4. Dechlorination of disinfecting water shall be in strict accordance with current AWWA Standard C655-09 or most recent.
5. Bolted tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D103. Welded tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D100. The roof of all metal tanks shall be designed and erected so that no water ponds at any point on the roof and, in addition, no area of the roof shall have a slope of less than 0.75 inch per foot. Concrete tank roofs shall be constructed in strict compliance with their respective AWWA Standard.
6. Roof vents shall be installed in strict accordance with current AWWA standards and shall be equipped with approved screens to prevent entry of animals, birds, insects and heavy air contaminants. Screens shall be fabricated of corrosion resistant material and shall be 16 mesh or finer. Screens shall be securely clamped in place with stainless or galvanized bands or wires and shall be designed to withstand winds of not less than tank design criteria (unless specified otherwise by the engineer).
7. All roof openings shall be designed in accordance with current AWWA standards. If an alternate 30-inch diameter access opening is not provided in a storage tank, the primary roof access opening shall not be less than 30 inches in diameter. Other roof openings required only for ventilating purposes during cleaning, repairing, or painting operations shall be not less than 24 inches in diameter or as specified by the licensed professional engineer. An existing tank without a 30-inch in diameter access opening must be modified to meet this requirement when major repair or maintenance is performed on the tank. Each access opening shall have a raised curbing at least four inches in height with a lockable cover that overlaps the curbing at least two inches in a downward direction. Where necessary, a gasket shall be used to make a positive seal when the hatch is closed. All hatches shall remain locked except during inspections and maintenance.

8. Overflows shall be designed in strict accordance with current AWWA standards and shall terminate with a gravity-hinged and weighted cover, an elastomeric duckbill valve, or other approved device to prevent the entrance of insects and other nuisances. The cover shall fit tightly with no gap over 1/16 inches. If the overflow terminates at any point other than the ground level, it shall be located near enough and at a position accessible from a ladder or the balcony for inspection purposes. The overflow(s) shall be sized to handle the maximum possible fill rate without exceeding the capacity of the overflow(s). The discharge opening of the overflow(s) shall be above the surface of the ground and shall not be subject to submergence.
9. All clear wells and water storage tanks shall have a liquid level indicator located at the tank site. The indicator can be a float with a moving target, an ultrasonic level indicator, or a pressure gauge calibrated in feet of water. If an elevated tank or standpipe has a float with moving target indicator, it must also have a pressure indicator located at ground level. Pressure gauges must not be less than three inches in diameter and calibrated at not more than two-foot intervals. Remote reading gauges at the owner's treatment plant or pumping station will not eliminate the requirement for a gauge at the tank site unless the tank is located at the plant or station.
10. Inlet and outlet connections shall be located so as to prevent short circuiting or stagnation of water. Clear wells used for disinfectant contact time shall be appropriately baffled.
11. Clear wells and potable water storage tanks shall be thoroughly tight against leakage, shall be located above the ground water table and shall have no walls in common with any other plant units containing water in the process of treatment. All associated appurtenances including valves, pipes and fittings shall be tight against leakage.
12. Each clear well or potable water storage tank shall be provided with a means of removing accumulated silt and deposits at all low points in the bottom of the tank. Drains shall not be connected to any waste or sewage disposal system and shall be constructed so that they are not a potential agent in the contamination of the stored water.
13. All clear wells, ground storage tanks, standpipes, and elevated tanks shall be painted, disinfected, and maintained in strict accordance with current AWWA standards. However, no temporary coatings, wax grease coatings, or coating materials containing lead will be allowed. No other coatings will be allowed which are not approved for use (as a contact surface with potable water) by the United States Environmental Protection Agency (EPA), NSF International, or the United States Food and Drug Administration (FDA). All newly installed coatings must conform to ANSI/NSF International Standard 61 and must be certified by an organization accredited by ANSI.
14. No tanks or containers shall be used to store potable water that has previously been used for any non-potable purpose. Where a used tank is proposed for use, a letter from the previous owner or owners must be submitted to the Commission which states the use of the tank.

15. Access manways in the riser pipe, shell area, access tube, bowl area or any other location opening directly into the water compartment shall be located in strict accordance with current AWWA standards. These openings shall not be less than 24 inches in diameter. However, in the case of a riser pipe or access tube of 36 inches in diameter or smaller, the access manway may be 18 inches times 24 inches with the vertical dimension not less than 24 inches. The primary access manway in the lower ring or section of a ground storage tank shall be not less than 30 inches in diameter. Where necessary, for any access manway which allows direct access to the water compartment, a gasket shall be used to make a positive seal when the access manway is closed.
16. Service pump installation taking suction from storage tanks shall provide automatic low water level cutoff devices to prevent damage to the pumps. The service pump circuitry shall also resume pumping automatically once the minimum water level is reached in the tank.
17. Pursuant to 30 TAC §290.44(b)(1), the maximum allowable lead content of pipes, pipe fittings, plumbing fittings, and fixtures is 0.25 percent.

PART C – SPECIAL SPECIFICATIONS

GENERAL REQUIREMENTS

1.0 GENERAL

This section contains specifications and descriptions covering the items of construction, materials, and workmanship necessary for the project and completing the various units or elements of the project which are not included in other sections of the special specifications and/or to modify and supplement said specifications.

Contained in this section are the modifications and supplements to the material and construction specifications as described in the following.

2.0 MEASUREMENT AND PAYMENT

The measurement and payment portion of the Construction Specifications shall be void when these items are applied to the water supply plant. The lump sum basis of payment shall apply to these items as specified in the proposal.

A. Measurement:

Items of work for construction of the water supply plant will not be measured separately for payment regardless of any provisions of the applicable specification to the contrary pertaining to measurement and payment.

B. Payment:

Payment for all work on the facility and appurtenances will be made under the lump sum items included in the proposal, and such payment shall be full compensation for all materials, labor, equipment, and all other costs incidental thereto for all work as required by the plans and specifications including, but not limited to the following:

All work for the project within and adjacent to the site including, but not limited to the equipment, piping, controls, structures, metering, electrical, grading, seeding, and mulching, fencing, clearing and grubbing, site grading, and services of Manufacturer's Representatives, and all other work necessary to construct the project complete and to place it in operation.

3.0 TESTS

As stated in the Special Conditions, all sampling and testing will be done at the Owner's expense and shall be included in the Contractor's bid for the individual items. The estimated number of field tests for the various items of work where not otherwise indicated, and which will be considered the minimum required by the contract for cost estimating purposes, will be as follows:

A. Quality of Concrete and Tests Required:

The Contractor shall have at least three (3) test beams or cylinders prepared and tested by an approved commercial testing laboratory for each separate structure and for each 50 cubic yards, or portion thereof, placed each day. The Contractor shall maintain proper curing facilities for test specimens and furnish all materials and make all arrangements for making and testing the test specimens.

Tests shall be performed in accordance with the "Standard Methods of Tests for Compressive Strength of Molded Concrete Cylinders" (A.S.T.M. Designation C-39) and two (2) copies of the laboratory tests reports shall be furnished to the Engineer.

Concrete failing to meet the compressive strength requirements for the class of concrete specified will be rejected and shall be removed and replaced without cost to the Owner.

The costs of all materials, preparation of test cylinders, furnishing and maintaining curing facilities and furnishing the required laboratory services shall be at the expense of the Owner and under the supervision of the Owner.

Slump tests will be made by the Engineer or Inspector in accordance with the procedure as outlined by the current A.S.T.M. Specification Designation D-138.

B. Fills, Subgrades, Base and Backfill:

The number of tests to be required for subgrades, access road course, and backfill in the various locations where density requirements are specified are as follows:

1. Proctor Lab Density Determination - 1 for each type of material involved.
2. Field Density Tests -
 - 1 - Foundation under each structure placed on fill of any type
 - 1 - Each 400 S.Y. of crushed stone or gravel course for access road

All retesting in the event of test failures will be at the Contractor's expense.

4.0 MISCELLANEOUS CHANGES TO STANDARD SPECIFICATIONS

The following changes or exceptions will apply to items of the specifications noted:

Concrete Construction will be modified as follows:

Formed concrete surfaces shall be finished in the following manner:

Non-exposed surfaces more than 1 foot below finish grade shall have honeycomb and other major defects repaired as specified for "Smooth Form Finish", but removal of fins and laitance and filling of minor air pockets will not be required. Exposed surfaces above 1 foot below finish grade and 1 foot below minimum water surface shall have a special surface finish. The special surface finish shall be as specified for "Smooth Form Finish" with these additional

requirements. Any surface irregularities such as offsets or uneven surface repairs shall be removed by rubbing or grading to provide a smooth and uniform surface without depressions or protrusions. The surface shall then be given a brush coat of polymerized cement slurry. The cement slurry shall be composed of 1 part polymer latex bonding agent, 10 parts Portland cement, 10 parts masonry sand, and approximately 4 parts water. The surface shall then be kept damp for at least 4 hours.

Coating shall not be applied until the surface is approved by the Engineer.

Gradation of the masonry sand shall be as required to produce a texture satisfactory to the Engineer.

Prepackaged materials meeting these requirements and acceptable to the Engineer, as to color, texture, and appearance, will be permitted.

Concrete surfaces shall be aged 28 days and thoroughly dry before painting. Surfaces shall be completely free of all surface contaminants. Sand blasting will be required if there is any evidence that the surface is not suitable to receive paint.

5.0 PERMANENT FACILITY SIGN

A permanent facility sign of porcelainized finish metal shall be provided to the Owner for installation. The sign shall have a white background with 2" black letters.

An 18" x 24" sign, reading:

**CITY OF CARLS CORNER
WATER SUPPLY PLANT
CAUTION: HAZARDOUS AREA**

EMERGENCY CALL: 254-580-3526

6.0 DISPOSITION OF SPOIL VEGETATION

The spoil vegetation generated from the clearing and grubbing of the site, where required, will be disposed of by the Contractor in an approved manner. It may not be burned at the site. It may be completely removed from the site by the Contractor and disposed of elsewhere in an acceptable manner. Any materials such as stumps shall be completely removed from the site. No material will be allowed to be placed or to otherwise enter the natural streams of the area. No such material will be allowed to remain under or to be placed in fills constructed for the project.

7.0 SPECIAL FOUNDATION AND BACKFILL REQUIREMENTS

The following requirements shall apply to all structures:

Where unsatisfactory foundation material is encountered at designated foundation depths, the material shall be removed and the foundation shall be restored with crushed stone, washed gravel, or other material satisfactory to the Engineer. Compaction shall be to 95% of Standard Proctor.

8.0 REFERENCE SPECIFICATIONS AND STANDARDS

When specifications and standards such as ASTM, AASHTO, AWWA, ASA, and other association standards are referenced in the specifications, it shall be interpreted to refer to the latest or current issue or the standard of specification.

END OF SECTION

PAINTING

1.0 GENERAL

The work to be performed under this item shall include the furnishing of all labor, materials, tools, and equipment required for painting as required by the various items of these Specifications.

The Contractor shall particularly require that paint suppliers and painting subcontractors become familiar with the entire project to assure that all surfaces which require painting receive a properly coordinated system in accordance with the plans and specifications. The Contractor shall also be responsible for preventing the application of unsuitable materials to surfaces involved in the treating and/or handling of water and/or wastewater.

2.0 WORKMANSHIP

- A. General: Workers applying the paint shall be experienced and skilled in the type of application involved and the individual in responsible charge shall be familiar with the materials and systems being used.
- B. Surface Preparation: All metal surfaces to be painted shall be sound, clean and free of harmful scale, rust, dust, dirt, oil, grease, moisture or any other foreign matter which might, in any way, lessen the life of usefulness of the coating. Metal shall also be smooth and free from blisters, rough corners, pits, dents, or other imperfections before painting. Pits and dents shall be filled and the metal ground smooth where required. When called for in the specifications or recommended by the paint manufacturer, the latest revision of the surface preparation specifications of the Steel Structures Painting Council shall apply:
 - 1. Solvent Cleaning (SSPC-SP1): Removal of oil, grease, soil and other contaminants by use of solvents, emulsions, cleaning compounds, steam cleaning or similar materials and methods which involve a solvent or cleaning action.
 - 2. Hand Tool Cleaning (SSPC-SP2): Removal of loose rust, loose mill scale and other detrimental foreign matter to degree specified by hand chipping, scraping, sanding and wire brushing.
 - 3. Power Tool Cleaning (SSPC-SP3): Removal of loose rust, loose mill scale and other detrimental foreign matter to degree specified by power wire brushing, power impact tools or power sanders.
 - 4. White Metal Blast Cleaning (SSPC-SP5): Blast cleaning to a gray-white uniform metallic color until each element of surface area is free of all visible residues.

5. Commercial Blast Cleaning (SSPC-P6): Blast cleaning until at least two-thirds of each element of surface areas is free of all visible residues from each square inch.
6. Brush-off Blast Cleaning (SSPC-SP7): Blast cleaning to remove loose rust, loose mill scale and other detrimental foreign matter to degree specified.
7. Near White Blast Cleaning (SSPC-SP10): Blast cleaning to nearly white metal cleanliness, until at least 95% of each element of surface area is free of all visible residues from each square inch.

Concrete surface shall, prior to painting, be free of all laitance, burrs, and fins, clean and free of scale, dust, oil, grease, moisture or any other foreign matter. Concrete block wall surfaces shall be free of all mortar dust, mud, oil, grease, moisture or any other foreign matter before painting.

Wood surfaces must be brushed free of dust and dirt and all rough spots shall be sanded smooth. The wood shall be thoroughly dry at the time of priming. All woodwork shall be sanded with #00 sandpaper between coats.

Special care shall be taken to protect all name plates and identification plates on equipment to be painted by masking them with tape or coating with Vaseline before painting adjoining surfaces. After painting is completed, the name plates and identification plates shall be carefully cleaned.

- C. Application: No coating or paint shall be applied when the surrounding air temperature or the temperature of the surface to be coated or painted is below 40 degrees F.; when the surface is wet or damp or in rain, snow, fog, or mist; when the temperature is less than 5 degrees F. above the dew point; or when the recognized local forecast is for the air temperature to drop below 40 degrees F. within six hours after application of the coating and/or paint. Dew point shall be measured by use of an instrument such as a Sling Psychrometer in conjunction with U.S. Department of Commerce Weather Bureau Psychrometric Tables. (See special note on painting schedule for high performance coating application temperature limitations.)

When two coats of coating or paint are specified, the two coats must be of contrasting color. Film thickness per coat as shown in the schedule following are minimum required. The Contractor shall apply additional coats as necessary to achieve the specified thickness.

Paints and similar materials shall be mixed in vessels of adequate capacity. All paint shall be thoroughly stirred before being taken from the containers, shall be kept stirred while using, and all ready-mixed paints shall be applied exactly as received from the Manufacturer without addition of any kind of a drier or thinner, except as provided in the Manufacturer's directions or upon specific authorization.

Each application of coating or paint shall be applied evenly, free of brush marks, sags, runs, with no evidence of poor workmanship. Care shall be taken to avoid lapping on glass or hardware. Coatings and paints shall be sharply cut to lines. Finished surfaces shall be free from defects or blemishes. Protective coverings or drop cloths shall be used to protect floors, fixtures and equipment. Care shall be exercised to prevent coatings or paints and from being spattered onto surfaces which are not to be coated or painted. Surfaces from which spattered materials cannot be removed satisfactorily shall be recoated or repainted.

- D. Thickness and Holiday Checking: On major structures or components requiring extensive painting, thickness of coatings and paint shall be checked with a non-destructive, magnetic type thickness gauge. Coating integrity of interior coated surfaces shall be tested with an approved Holiday inspection device. Holiday detection shall be performed prior to application of aluminum or metallic finish coats. Non-destructive Holiday detectors shall not exceed 67-1/2 volts nor shall destructive Holiday detectors exceed the voltage recommended by the manufacturer of the coating system. For thickness between 10 and 20 mils a non-sudsing type wetting agent shall be added to the water prior to wetting the detector sponge. All pinholes shall be marked, repaired in accordance with the Manufacturer's printed recommendations and retested. No pinholes or other irregularities will be permitted in the final coating.
- E. Inspection Devices: If required in the Project Specifications, the Contractor shall furnish, until final acceptance of coating and painting, inspection devices in good working condition for detection of holidays and measurement of dry-film thickness of coating and paint. The Contractor shall also furnish U.S. Department of Commerce, National Bureau of Standards certified thickness calibration plates to test accuracy of dry-film thickness gauge and certified instrumentation to test accuracy of Holiday detectors. Dry-film thickness gauges and Holiday detectors thus required shall be made available for the Owner's Project Representative's use at all times until final acceptance of application. Holiday detection devices shall be operated in the presence of the Owner's Project Representative.

2.1 MATERIALS

All paint shall be of the best quality applied in strict conformity with the Manufacturer's recommendations, but not less than specified herein. Products of the Tnemec Co., which are acceptable for the various specific uses, are tabulated to establish a standard of quality. Comparable products of PPG, Sherwin Williams, Koppers, or other Manufacturers with at least five years of proven experience in equivalent installations will be given equal consideration upon submittal and approval of written evidence of equivalence.

All materials shall be delivered to the job in their original containers with labels intact and seals unbroken, and they shall be observed thus by the Owner's Project

Representative before opening. Mixing, thinning and application of the coating materials shall be in exact accordance with the manufacturer's recommendations.

The Contractor shall submit, in writing, to the Owner's Project Representative, the name of the Manufacturer of the paint proposed to be used, the Manufacturer's recommendations for use of his paint under the specified conditions and color cards of the proposed paint for color selection by the Owner. This information shall be submitted prior to ordering the paint and in ample time not to delay the work.

If systems of painting other than those tabulated herein are employed, it shall be the Contractor's responsibility to ensure that the several coats of shop and field applied paints are compatible within each structure and consistent in color throughout the project.

2.2 PAINTING SCHEDULE

The number of coats called for in this schedule shall be considered minimum. If more coats are required for complete coverage and uniform appearance, they shall be applied. Colors will be selected by the Owner from standard Manufacturer's color samples. Colors for piping shall be as stipulated on the following pages.

3.0 PAYMENT

No direct payment will be made for painting as may be required under the various other items of these specifications, measurement and payment for labor, materials and equipment required to constitute the completed work, or any part thereof as specified, will be included in the price bid for the specific bid item where such labor, materials and equipment are required.

END OF SECTION

FINISH COLORS for PUMPS, PIPING, VALVES, etc.

<u>Use</u>	<u>Generic Color</u>	<u>Tnemec Color Identification</u>	
Plant Effluent	Red Clay	14RD	Red Clay
Sludge	Dark Brown	15SF	Safety Brown
Raw Sewage	Dark Gray	1400-0905	Dark Gray
Chlorine (gas or solution)	Yellow	02SF	Safety Yellow
Compressed Air	Dark Green	08SF	Hunter Green
Reuse Water	Purple	16SF	REC Water Purple
Raw Water	Olive Green	27GN	Linden
Potable Water	Dark Blue	11SF	True Blue/Safety
Structural Steel	Tan	03BR	Washed Khaki
Drains	Black	56BL	Abyss

PIPING & VALVES COATING SPECIFICATION

Exposed

EPOXY/POLYURETHANE

Surface Preparation - SSPC-SP1

All piping, valves, etc., that are not factory primed. Shall be cleaned for painting by removal of oil, grease, soil and other contaminants by use of solvents, emulsions, cleaning compounds, steam cleaning or similar materials and methods which involve a solvent or cleaning action.

Primer (factory primed or not):

Series 1, Omnithane, 2.5 to 4.0 mils, dry film thickness.

Intermediate Coat:

Series 66 or 69 Hi-Build Epoxoline, 4.0 to 6.0 mils, dry film thickness.

Finish Coat:

Series 73, 74 or 75 Endura-Shield, 2.0 to 3.0 mils, dry film thickness.

VALVE VAULT or WET WELL COATING SPECIFICATION

Exterior Exposed

EPOXY ESTER

Surface Preparation - Clean & Dry

Must be clean, dry and free of oil, grease and other contaminants. Allow new concrete to cure 28 days. Level protrusions and mortar spatter.

Primer:

Series 180 or 181 Tneme-Crete, 4.0 to 8.0 mils, dry film thickness.

Finish Coat:

Series 180 or 181 Tneme-Crete, 4.0 to 8.0 mils, dry film thickness.

VALVE VAULT or WET WELL COATING SPECIFICATION

Exterior Below Grade

COAL TAR EPOXY

Surface Preparation - Clean & Dry

Must be clean, dry and free of oil, grease and other contaminants. Allow new concrete to cure 28 days. Level protrusions and mortar spatter.

Finish Coat:

Series 46H-413 Hi-Build Tneme-Tar, 14.0 to 20.0 mils, dry film thickness.

VALVE VAULT or WET WELL COATING SPECIFICATION

Interior

MODIFIED POLYAMINE EPOXY

Surface Preparation - SSPC-SP13/NACE 6

Allow new concrete to cure 28 days. Provide abrasive blast cleaning. Surface shall be free of contaminants, laitance, loosely adhering concrete and dust, moisture curing membranes, loose cement and hardeners to provide a dry, sound, uniform substrate suitable for the application of protective coating or lining systems. Bugholes, air pockets and other voids shall be filled prior to the application of the coating.

Primer:

None (self-priming).

Finish Coat:

Series 435 Perma-Glaze, 30 to 40 mils, dry film thickness, in one or two coats.

SITE GRADING**1.0 GENERAL**

This section includes site grading and backfill of the entire disturbed area not occupied by structures within the fence. The Contractor shall furnish all materials, equipment and labor, and to finish, complete, the site grading. This work shall not be accomplished until all work on the lines and structures is complete.

2.0 SITE GRADING AND FINAL CLEANUP

The entire site shall be graded to the contours shown on the plans and with uniform slopes. Excavated material may be spread, in such a manner as not to interfere with the natural drainage, over the remainder of the disturbed site on which the water supply plant is situated. The finished surface of the ground shall be fine graded to present a smooth uniform surface, free of rocks.

All graded areas, including fill areas, shall be scraped free of all existing weeds, roots, and sod, which shall be removed from the site. The entire graded or disturbed area within the fence shall be fine graded and present a smooth and uniform surface.

END OF SECTION

CHAIN LINK FENCING

1.0 GENERAL

All materials must be domestic, and a manufacturer's certificate of compliance shall be furnished the Owner prior to fence installation. No spliced posts, split pipe, or re-rolled sections shall be used, and all materials shall be new and shall conform to all requirements and tests as hereinafter specified.

The chain link fence shall be constructed in accordance with the details on the plans and as specified herein with new materials, and all work shall be performed in a workmanlike manner satisfactory to the Engineer.

2.0 MATERIALS

A. Fabric:

Fabric shall be galvanized, or aluminum coated copper-steel wire, and unless otherwise specified it shall be No. 9 gage with a diameter after coating of 0.149 in. (± 0.005 in.). The weave shall form an approximately uniform square mesh having parallel sides spaced 2 in. apart with a tolerance of 1/8 in. or such that, in a vertical dimension of 23 in. along the diagonals of the square openings, there shall be at least seven meshes. The diagonals of the square mesh should be near vertical and horizontal and shall be approximately the same dimension. The top and bottom selvages shall be twisted and barbed or knuckled as specified. The barbing shall be done by cutting the wire on a bias, thus creating sharp points. Knuckling shall be done by bending the unwound portion of the ends of pickets against their wound portion in such a manner that no protrusions, sharp edges or rough ends shall create a hazard. The wire in the fabric shall withstand a minimum tensile strength of 75,000 psi after coating. If the fabric is to be hot dip galvanized, it shall be done after complete fabrication to include weaving, knuckling, barbing, cutting, and splicing, and it shall be done by the continuous process and shall not be galvanized in the roll form.

B. Line Posts:

1. Line posts for fences 3 ft. to 5 ft. in height shall be one of the following sections:
 - a. Pipe section AISC standard 1-1/2 in. nominal diameter copper-steel pipe with an O.D. of 1.900 in. (± 0.016 in. -0.031 in.) and I.D. of 1.610 in., wall thickness of 0.145 in. (-0.18 in.) a minimum weight per linear foot of 2.72 lbs. (± 0.14 lbs.) and a minimum tensile strength of 43,000 psi;
 - b. H-section, 1-5/8 in. by 1-7/8 in. copper-steel H-section with a flange width of 1.625 in. (± 0.062 in.) overall depth of 1.875 in. (± 0.062 in.) web thickness of 0.113 in., a minimum weight per linear foot of 2.72 lbs. (± 0.14 lbs.) and a minimum tensile strength of 75,000 psi.

2. Line posts for fences 6 ft. or more in height shall be one of the following sections:
 - a. Pipe section, AISC standard 2 in. nominal diameter copper-steel pipe with an O.D. of 2.375 in. (± 0.024 in.), and I.D. of 2.067 in., a wall thickness of 0.154 in. (-0.019 in.) a minimum tensile strength of 43,000 psi.
 - b. H-section, 2 in. by 2-1/4 in. copper-steel H-section with a flange width of 1.950 in. (± 0.094 in.), and overall depth of 2.250 in. (± 0.094 in.), a web thickness of 0.143 in., a minimum weight per linear foot of 4.1 lbs. (± 0.21 lbs.), and a minimum tensile strength of 75,000 psi.

C. Terminal Posts:

Terminal (end, corner, and pull) posts for fences 3 ft. to 5 ft. in height shall be not less than AISC standard 2 in. nominal diameter pipe as described in Section 378.2 (B) 2 (a), Line Posts. Terminal post for fences 6 ft. or more in height shall be not less than AISC standard 2-1/2 in. nominal diameter copper-steel pipe with an O.D. of 2.469 in., a wall thickness of 0.203 in. (± 0.025 in.), a minimum weight per linear foot of 5.79 lbs. (± 0.29 lbs.), and a minimum tensile strength of 43,000 psi.

D. Gate Posts:

Posts for gates with opening not over 6 ft. for single gates and 12 ft. for double gates shall not be less than AISC standard 2-1/2 in. nominal diameter pipe as described above.

Post for gates with openings over 6 ft. to 13 ft. for single gates or 12 ft. to 26 ft. for double gates shall not be less than AISC standard 3-1/2 in. nominal diameter copper-steel pipe with an O.D. of 4.000 in., (± 0.40 in.), and I.D. of 3.548 in., a wall thickness of 0.226 in. (-0.028 in.), and a minimum tensile strength of 43,000 psi.

Post for gates with opening over 13 ft. to 18 ft. for single gates or 26 ft. to 36 ft. for double gates shall not be less than AISC standard 6 in. nominal diameter pipe with an O.D. of 6.625 in. (± 0.063 in.), I.D. of 6.065 in., wall thickness of 0.280 in. (-0.035 in.), a weight per linear ft. of 18.97 lbs. (± 0.95 lbs.), and a minimum tensile strength of 43,000 psi.

E. Gates:

1. Frames. Gate frames are to be fabricated of AISC standard 1-1/2 in. nominal diameter pipe as described in Section 378.2 (B) 1 (a), Line Posts. Gate leaves from approximately 7 ft. to 11.5 ft. long shall have a central vertical frame member of AISC standard 1 in. nominal diameter copper-steel pipe with an O.D. of 1.315 in. (± 0.016 in., -0.013 in.), and I.D. of 1.049 in., a wall thickness of 0.132 in. (-0.017 in.), a minimum weight per linear foot of 1.68 lbs. (± 0.084 lbs.), and a minimum tensile strength of 43,000 lbs. Gates leaves from over

11.5 ft. to 16 ft. long shall have a central vertical frame member the same as the outside frame members. All gates shall be trussed diagonally in both directions to opposite corners with 3/8 in. round copper-steel truss rods with a turnbuckle for adjustment, except the gate leaves from 11.5 ft. to 16 ft. long which shall be trussed from the ends of the central internal frame members in both directions to opposite corners. Gates shall be assembled with malleable iron or pressed steel corner ells, with a minimum of four rivets or bolts with lock washers per corner. When gates are to carry barbed wire, the end members are to extend upward through the top corner ells one foot. The vertical frame members that carry the barbed wire shall be capped to exclude the entrance of water and come equipped with J or eye bolts for the attachment of the barbed wire.

2. Fabric: The chain-link fabric shall be the same as specified for the fence.
3. Hinges: Hinges shall be high grade malleable iron of the ball and socket type which will permit the gate to swing 180 degrees back against the fence. The lower hinge of the gates shall support the entire vertical load of the gates as well as provide for the resultant horizontal reaction, and the upper hinges shall provide for the upper horizontal reaction. Plug and socket hinges of heavy duty hot rolled pressed steel may be accepted by the Engineer if they are considered equal to the ball and socket type in all respects with reference to a particular size. All hinges are to come equipped with a set screw to be screwed into a hole post, shall have grips, or be riveted or bolted to the gate post to prevent rotation of the hinge after it has been properly installed. When the off-set is not used to adapt the hinge of a 180° swing, the gate shall be lengthened the distance the hinging axis is moved out from the normal opening.
4. Latches: Latches, hasps and bolts shall be accessible from the side or sides of the gates as specified and shall provide for padlocking. When latches of the cane bolt type are specified, they shall be arranged for padlocking and be complete with a socketed center rest in concrete to hold the gate securely and in true alignment when closed. Unless otherwise specified, all gates will be completed with a semiautomatic latch or holdback set in concrete to secure the gates in the open position.

F. Top Rails:

Top rails shall be the AISC standard 1-1/4 in. nominal diameter copper-steel pipe with an O.D. of 1.660 in. (+0.016 in., -0.031 in.), and I.D. of 1.380 in., a wall thickness of 0.140 in. (-0.018 in.), a minimum weight per linear foot of 2.27 lbs. (±0.114 lbs.) and a minimum tensile strength of 43,000 psi.

The top rail shall pass through the base of the line post tops and form a continuous brace from end to end of each run of fence. Coupling shall be outside sleeve type and at least 7 in. long; 1 coupling in every 5 shall contain a heavy spring to take up expansion and contraction of the top rail.

G. Post Tops and Extension Arms:

Post Tops are to be heavy malleable cast iron or heavy pressed steel. Bases of the post tops shall have flanges which fit around the outside of the tops of the post and post tops for all pipe post shall be designed to exclude moisture from post interior.

When the fence is surmounted with barbed wire, post shall be equipped with pressed steel extension arms riveted or bolted with lock washers to a heavy malleable cast iron base for supporting the barbed wire in the position specified or as shown on the plans. The end and corner post extension arms can be malleable cast iron and are to be of sufficient structural strength to support the installed barbed wire strands tautly stretched without permanent deflection or noticeable temporary deflection. End and corner post extension arm bases shall be riveted to the post with 1/2 in. galvanized rivets, be bolted with 1/2 in. galvanized bolts and lock washers or be equipped with a set screw to fit in a hole in the post to prevent rotation of the extension arm assembly with respect to the post after they have been properly installed. Corner post extension arms shall carry the strands of barbed wire at the same angle with respect to the fence as the line post outside strand or strands of barbed wire 1 foot above the top rail and 1 foot horizontally from the fence line.

Line post extension arms are to be a minimum of 14 gage pressed steel. Extension arms are to be slotted to accommodate the barbed wire which is to be held in the slots by means of heavy wire pins. Extension arms having projections to be bent over the barbed wire are not to be used. All installed extension arms are to be able to withstand a vertical downward force at their ends of 300 lbs. without permanent deflection or noticeable temporary deflection and riveted or bolted connections to the extension arm bases shall be rigid when installed. Extension arm bases, when installed on pipe post, shall be designed so as to prevent the entrance of water. Where extension arms are riveted to the bases, they are to be galvanized with the base after assembly.

H. Barbed Wire:

Barbed wire shall be two No. 12-1/2 gage strands of galvanized or aluminum coated copper-steel wire with a diameter after coating of 0.099 in. (± 0.004 in.). The barbs shall be No. 14 gage (full round) copper-steel wire, 0.080 in. (± 0.004 in.), in diameter, and coated with the same material as the strands. The strands shall be uniformly twisted, and the barbs shall be the large 4-point type cut on a bias so as to be sharp, shall be well formed and tightly wrapped, minimum allowable tensile strength shall be 80,000 psi.

I. Bottom Tension Wire:

Bottom tension wire shall be No. 7 gage galvanized or aluminum coated spring coil or spiral tension wire with a diameter after coating of 0.177 in. (± 0.005 in.) and a minimum allowable tensile strength of 80,000 psi. The tension wire shall hold the fabric in proper alignment and be resilient so as to restore alignment when the fabric is deflected, and it shall not permanently elongate under normal deflection.

J. Ties:

When the line posts are H-sections, the fabric shall be fastened to them with No. 7 gage galvanized or aluminum coated clips to be clinched at the back of the post. The fabric shall be fastened to top rails or pipe section line post with No. 11 gage galvanized or aluminum coated tie wires. The fabric shall be attached to the bottom tension wire with No. 12-1/2 gage galvanized or aluminum coated pig rings.

K. Braces:

Braces shall be AISC standard nominal diameter 1-1/4 in. pipe as described in Section 378.2 (F), Top Rails or a 1-5/16 in. by 1-1/2 in. H-section with a flanged width of 1.3125 in. (± 0.063 in.), an overall depth of 1.500 in. (± 0.063 in.), a minimum tensile strength of 75,000 psi. The braces are to be spaced midway between the top rail and the bottom of the fabric and are to extend from all terminal (end, corner, and pull) posts and gate posts to their brace post. The braces shall be securely fastened to the posts by means of malleable iron or pressed steel connections and shall be trussed from the intersection of the brace and brace post back to the base of terminal or gate post with a 3/8 in. copper-steel rod and turnbuckle assembly.

L. Stretcher Bars:

Stretcher bars or tension bars shall be a 3/16 in. by 3/4 in. bar or an equivalent section of good quality steel and of sufficient strength to maintain the tension in the fabric and alignment of the mesh. The clamps or stretcher bands will be fastened to the stretcher bars with 3/8 in. bolts.

M. Electrical Ground:

The fence shall be grounded where a power line passes over the fence, in each section of fence, and not less than every 1000 feet of continuous fencing. The ground shall consist of a copper weld rod 8 ft. long and a minimum of 5/8 in. in diameter, and it shall be driven or drilled vertically into the soil until the top of the rod is approximately 6 in. below the top of the soil. A No. 6 solid copper conductor shall be brazed to the rod and to the fence in such a manner that each element of the fence is grounded.

N. Concrete:

Unless otherwise specified, all concrete for post footings, latch and socket bases for gates, runner, etc., shall be 2500 lb. concrete.

O. Galvanizing:

The zinc for coating shall be a grade of zinc conforming to the latest ASTM Specification for Slab Zinc (Spelter). Unless an aluminum coated alternate is used all ferrous material functioning as a component part of the installed fence shall have a hot dip galvanized Class 2 coating except barbed wire and spring coil tension wire.

Class 2 coating shall not be less than 2.0 oz. of zinc coating per square foot of uncoated surface. Barbed wire shall have the barbed wire Class 3 coating with a minimum of 0.80 oz. of zinc coating per square foot of uncoated surface on the 12-1/2 gage strands and a minimum of 0.65 oz. of zinc coating per square foot of uncoated surface on the 14 gage barbs. The spring coil tension wire shall have a minimum of 0.60 oz. of zinc coating per square foot of uncoated wire surface, and the coating shall have sufficient adherence to be wrapped around a mandrel equal to the wire diameter without damaging the coating. The 2.0 oz. coating shall withstand the 12 M Preece test, the 0.80 oz. coating shall withstand the 4 M Preece test, and the 0.60 oz. and 0.65 oz. coatings shall withstand the 3 M Preece test.

P. Aluminum Coating

The aluminum coated fabric and tension wire shall have a minimum of 0.40 oz. of aluminum coating per square foot of uncoated surface. The aluminum coated barbed wire shall have a minimum of 0.30 oz. of aluminum coating per square foot of surface on the 12-1/2 gage strands and a minimum of 0.25 oz. of aluminum coating per square foot of surface on the 14 gage barbs.

Q. Inspection and Sampling:

The Contractor shall furnish from each shipment, upon request of the Engineer, samples of each component part of the fence for testing. All samples shall be furnished to the Owner free of charge. If any specimen tested fails to meet the requirements of this specification, the lot represented by the sample may, at the option of the Engineer, be rejected. The zinc coating shall be tested for weight by a stripping test in accordance with current Standard Methods of Test of Weight of Coating on Zinc-Coated (Galvanized) Iron or Steel Articles (ASTM Designation A90). The uniformity of the zinc coating shall be tested in accordance with current Standard Method of Test for Uniformity of Coating by the Preece Test (Copper Sulfate Dip on Zinc-Coated (Galvanized) Iron or Steel Articles (ASTM Designation A 239-41). Careful visual inspection shall be made to determine the quality of the zinc coating. Excessive roughness, blisters, salammoniac spots, bruises, and flaking, if present to any considerable extent individually or collectively, shall provide a basis for rejection. The weight of the coating will be determined by a strip test as defined in the ASTM A-428-58T. The coating shall be uniform and concentric with the wire. As a check on the proper adherence of the coating, it shall have such properties as to permit the wire to be wrapped about its own diameter without cracking or flaking of the coating.

The wire gage specified is the U.S. Steel Wire Gage, and all wire sizes will comply with this gage's dimensions.

3.0 CONSTRUCTION

A. Clearing Fence Line:

The site of the fence shall be sufficiently cleared of obstructions, and surface irregularities shall be graded so that the fence will conform to the general contour of the ground. The fence line shall be cleared to a

minimum width of two (2) feet on each side of the centerline of the fence. This clearing shall consist of the removal of all stumps, brush, rocks, trees, or other obstructions which will interfere with construction of the fence. Stumps within the cleared area of the fence line shall be completely removed. When shown on the plans or as directed by the Engineer, the existing fences which coincide with or are in a position to interfere with the new fence location shall be removed by the Contractor as a part of the construction work, unless such removal is listed as a separate item in the bid schedule. All holes remaining after post and stump removal shall be refilled with suitable soil, gravel, or other material acceptable to the Engineer and shall be compacted properly with tampers. The work shall include the handling and disposal of all material cleared, excavated, or removed, regardless of the type, character, composition, or condition of such material encountered.

B. Posts:

All posts shall be spaced not more than ten (10) feet apart and as shown on the plans. Terminal (end, corner and pull) post gate posts and line posts shall be set in concrete bases of the diameter and depth as shown on the plans. The concrete bases for the post shall be of sufficient depth to provide a minimum of two (2) inches of concrete below the bottom of the posts. The top of the concrete bases shall be slightly above the ground, trowel finished and sloped to drain away from the posts. Holes of full depth and size for the concrete bases for posts shall be dug to the size and depth as shown on the plans. All post settings shall be made carefully so that all posts shall be vertical, in true alignment and rigidly secured in position. On terminal (end, corner and pull) posts and gate posts, the posts tops and brace rail clamps around the posts shall be placed before setting the posts in the concrete bases, or at such time that heavy clamps can be installed without spreading them to accommodate the post. In setting the gate posts, great care must be taken to make sure that gate posts are set the exact distance apart as shown on the plans. For example, posts for a six (6) foot gate must be set to leave an opening exactly six (6) feet wide. A line drawn across from the top of one gate post to the other must be level, regardless of the grade of the ground line. If the ground is not level, the upgrade post shall be set first to get the proper height for the downgrade gate post. The concrete for post setting shall be allowed to cure seven (7) days. Stretcher bar bands, and truss bands shall be spread and slipped on end, corner, pull, brace, and gate posts as the next operation. Post tops are then inserted on all other posts. Pull posts shall be placed not over five hundred (500) feet apart in straight runs and at each vertical angle points, all as directed by the Engineer. Corner posts shall be placed at each horizontal angle point. Corner and pull posts shall have horizontal braces and truss rods as shown on the plans or as specified.

C. Top Rail:

To start the installation, a length of top rail shall be run through the first couple of post tops; a rail clamp shall be assembled on the end, corner or gate post, as the case may be. The end of the rail already placed shall be butted into the clamp and fastened. The top rail shall be installed along the run of the fence, and the various sections joined with sleeve couplings. At not more than one hundred (100) feet, an

expansion coupling shall be placed to take care of expansion and contraction of the rail. The rail shall be clamped in the end, corner, or gate post at the end of the run of the installation of top rail.

D. Braces:

All horizontal braces shall be attached together with truss rods at terminal (end, corner and pull) posts and gate posts to the brace posts as shown on the plans.

E. Fabric:

The fabric shall be unrolled on the outside of the fence line with the bottom edge of the fabric against the posts. The various rolls shall be spliced by bringing the ends close together and weaving in a picket in such a way that it will engage both of the roll ends and catch with each twist each separate mesh of the end pickets of both rolls of fabric. The fabric shall be raised and tied loosely to the top rail with a temporary tie wire at intervals of about twenty (20) feet. The fabric shall be installed by a method approved by the Engineer.

At terminal (end, corner and pull) posts and gate posts, the fabric shall be fastened with stretcher bars and bands. The fastenings shall be spaced not more than fourteen (14) inches on centers for terminal (end, corner, and pull) posts and gate posts. The topmost band shall be placed on these posts as near the top of the fabric as possible, and lowest band as near the bottom of the fabric as possible. Standard chain-link fence stretching equipment shall be provided for stretching the fabric before tying it to the rails and posts. The stretching and tying operations shall be repeated about every one hundred (100) feet until the run of fence is complete.

F. Gates:

The gates shall be hung on gate fittings in accordance with the specifications. The lower hinge shall be placed on top of the concrete footing in which the gate post is set; the concrete in the footing shall extend up to the bottom of the lower hinge. The sockets for the cane or foot bolts shall be set in concrete so that the plunger pin will fit perfectly in the socket when the gate is in a closed position. Gates shall be so erected as to swing in the direction indicated, and they shall be provided with gate stops as specified or as shown on the plans.

Gates shall be erected in suitable places, as directed by the Engineer, or as shown on the plans. All hardware shall be thoroughly secured, properly adjusted, and left in perfect working order. Hinges and diagonal bracing in gates shall be adjusted so that gates will hang level.

G. Existing Fence Connections:

Wherever the new fence joins an existing fence, either at a corner or at the intersection of straight fence lines, a corner post with a brace post shall be set at the junction and braced the same as herein described for corner posts or as shown on the

plans. If the connection is made at other than the corner of the new fence, the last span of the old fence shall contain a brace span.

4.0 CLEAN-UP

The Contractor shall during the process of construction maintain the job site or premises in an orderly manner, free from accumulations of waste material or rubbish caused by his work or employees. The Contractor shall maintain cleanup as the contract work progresses. The Contractor shall remove from the vicinity of the completed work all tools, buildings, equipment, etc., belonging to him or used under his direction during construction.

No extra compensation will be made to the Contractor for any cleanup required on the project. In case of failure on the part of the Contractor to comply promptly with the above requirements, the Owner may complete necessary cleanup operations and deduct the cost of such cleanup from money due the Contractor.

5.0 REPAIR OF DAMAGED COATING

On all galvanized parts where zinc coating has been omitted, chipped off or removed, the steel or iron left exposed shall be touched up with "Drygalv" zinc coating, as manufactured by the Force Chemicals Division of American Solder and Flux Company, or an approved equivalent. After the touched-up area has hardened, it shall be wire brushed to the same texture as the surrounding coating.

END OF SECTION

TRENCH EXCAVATION SAFETY

1.0 GENERAL

This section shall consist of the basic requirements with which the Contractor must comply in order to ensure the safety and health of workers in a trench.

The trench safety system shall be used for all trench excavations deeper than five (5) feet. The Excavating and Trenching Operation Manual of the Occupational Safety and Health Administration, U.S. Department of Labor; Subpart P (latest edition) shall be the minimum governing requirement of this item and is hereby made a part of this specification.

2.0 METHODS

There are three acceptable methods of trench safety system. The Contractor shall have the option to use the method he deems appropriate provided that more than one method is included in the plans and specifications.

A. Angle of Repose Method

If the wall or face of the excavation is sloped to preclude collapse, slope shall not be steeper than 1-foot vertical to 2-feet horizontal. Any deviation from this angle of repose (26°34') resulting in a steeper slope, must be designed by a Registered Professional Engineer, and furnished to the Owner for approval. The angle of repose method of trench safety system will not be permitted in the following situations:

1. within the right-of-way of an existing paved street.
2. adjacent to/or crossing existing structures, utilities, trees, etc.
3. when any portion of the excavation exceeds the limits of the permanent utility easement.

B. Trench Shield Method

Where trench boxes or shields are used, they shall be designed and certified by a Registered Professional Engineer and certification form furnished to the Owner. They shall be constructed and maintained in a manner which will provide protection equal to or greater than the sheeting or shoring required for the trench. In all cases if the top of the trench box is below the existing grade, that portion above the trench box shall be sloped back to the angle of repose of 1-foot vertical to 2-feet horizontal unless as specified in Part (A) above.

C. Trench Shoring, Shheeting, and Bracing Method

For depths greater than 5 feet all members shall be sized and spaced in accordance with the 15 to 20 feet deep all kinds or conditions of earth category in Table P-2 of OSHA Excavating and Trenching Operations Manual. Any deviation shall be designed by a Registered Professional Engineer and furnished to the Owner for approval. All materials shall be of structural or construction grade.

3.0 MEASUREMENT

All methods such as angle of repose, trench shield, or trench shoring, sheeting, and bracing for use as a trench safety system, defined in the plans and contract documents, will be measured by the linear foot. The linear foot quantity allocated for this project is based on vertical increments of five (5) feet for installations greater than trench depth of five (5) feet and shall include mains, service lines, and others.

4.0 PAYMENT

Payment for trench safety system shall be full compensation for safety system design, labor, tools, material, equipment, and incidentals, necessary to complete the work including removal of the system and backfill.

END OF SECTION

BOLTED STEEL GROUND STORAGE TANK**1.0 DESCRIPTION****1.01 SCOPE**

- A. This specification covers the furnishing of all labor, material, equipment, tools, services, and erection of a **factory powder coated water storage tank**, as manufactured by Superior Tank Co., Inc., CST Tanks, American Tank, United Industries Group, or an approved equal, and as shown on the plans and specified herein.
- B. The bolted steel tank shall conform to the requirements of American Water Works Association (AWWA) D103-09 Standard for Factory-Coated Bolted Carbon Steel Tanks for Water Storage.
- C. The tank shall have a capacity of **160,000 gallons** with a nominal diameter of 42'-0" and a nominal height of 16'-0".

1.02 SUBMITTALS

- A. Shop Drawings: Submit shop drawings of the bolted steel tank and all accessories for review and approval by the engineer prior to beginning any related shop fabrication or erection. Include data to show that the tank and accessories conform to the requirements of this specification.

Submittals shall include:

- 1. Design calculations signed by a civil or structural engineer registered in the State of Texas.
- 2. Fabrication and erection drawings and details for the tank and all accessories.
- 3. Certified mill tests on steel plate and structural members demonstrating that the physical and chemical requirements of this Specification have been met.

2.0 MATERIALS**2.01 GENERAL DESCRIPTION**

- A. The Manufacturer shall furnish, erect, and test the tank as required by AWWA D103-09. The Manufacturer shall be completely responsible for the construction and satisfactory performance of the tank during the warranty period. The tank shall conform to AWWA D103-09, to the latest edition Building Code, and to the requirements of the plans and this Specification. The supplier shall submit for approval complete and detailed plans for the tank and appurtenances.

- B. The Factory Powder Coated bolted steel tank shall have a nominal capacity as indicated above. A cone roof, sloped to drain toward the shell, shall be provided. Provide the tank complete with all pipe connections, access openings, nozzles, taps, drains, ladders, vent, and other accessories as shown on the plans or required herein.

2.02 MATERIALS

- A. Plates and Sheets. Plates and sheets shall conform to appropriate ASTM designation as set forth in Section 4.4, AWWA D103-09, and shall have a minimum yield strength of 30,000 psi.
- B. Structural Shapes. Structural shapes shall conform to the requirements and ASTM designations of AWWA D103-09 section 4.5
- C. Bolts. Tank joint bolting shall be minimum ½" diameter, shall meet the requirements of AWWA D103-09 section 4.2.1. and have tensile strength of at least 120,000 pounds per square inch.
- D. Gaskets and Sealant. All gaskets and sealants used on this tank shall conform to the requirements of AWWA D103-09 section 4.10.

2.03 ACCESSORIES

- A. Shell Manhole: Provide a 30" x 46" flush shell manhole located as shown on the drawings. The center of the manhole shall be located 30 inches above the bottom of the tank.
- B. Pipe Connections:
 - 1. Provide inlet nozzle, outlet nozzle with antivortex plate, and overflow and drain outlets as shown on the plans.
 - 2. Provide a 1-inch NPT tank connection as shown on the plans for sampling connection.
- C. Overflow pipe: Provide steel internal overflow pipe and supports as shown on the plans. The overflow pipe assembly shall be powder epoxy lined and coated for corrosion protection.
- E. Ladders:
 - 1. Provide a galvanized steel welded exterior ladder with a safety cage. Ladder and ladder accessories shall conform to the latest edition of the OSHA rules and regulations.
 - 2. Provide a galvanized steel welded interior ladder.

F. Roof Openings:

1. A 20-inch screened vent shall be provided on the roof. The vent shall be fabricated to provide removable screened openings between the vertical support members of the vent. The screened openings of the vent shall be sized by the manufacturer to allow venting of a 100 gpm pumping rate. An effective area of 75% of screen opening shall be assumed. The screen shall consist of one layer of Type 316 stainless steel 16 x 16 x 0.018 wire mesh insect screen.
2. The tank roof shall have a curved, upward opening 30-inches square, minimum, hatch located near the exterior and interior ladders. The curb shall extend at least 4 inches above the tank. The hatch cover shall be hinged and shall have locking provisions. The hatch cover lip shall extend for at least 2-inches down on the outside of the curb.

G. Roof safety handrail shall be provided where shown on the plans. Handrails shall be hot dip galvanized or aluminum and shall meet and/or exceed OSHA safety standards.

H. Provide a full-travel liquid level indicator with Type 316 stainless steel internals and complete with float and target board assembly.

I. Gaskets and sealants shall meet or exceed AWWA, FDA, and EPA standards for potable water.

J. Anchor bolts and stirrups, if required, shall be furnished by the tank manufacturer.

2.04 PROTECTIVE COATING

A. General: All metal plates, supports, members and miscellaneous parts, except bolts, shall be Factory Powder Coated in accordance with AWWA D103, Section 12.6 and this Section or galvanized. Field coating, other than touch-up, will not be permitted. **The exterior tank color shall be Sky White.**

B. Surface Preparation:

1. All steel surfaces shall be shot blasted to equivalent of a SP 10 or better near white metal finish. The surface anchor pattern shall be no less than 1.5 mils.
2. Spray a final deionized water rinse with a sealer to prevent rusting prior to the powder coating application and provide additional level of corrosion protection
3. All steel surfaces shall drip dry prior to entering a dry off oven.

C. Coating:

1. All interior steel surfaces, support members and miscellaneous parts shall receive 5 mils minimum average dry film thickness using "Tank Tan" (an NSF 61 approved, Thermal Set Epoxy Powder Coating).
2. All exterior steel surfaces, support members and miscellaneous parts shall receive a minimum 2 mils average dry film thickness "Tank Tan" primer under 3 mils minimum average dry film thickness "**Sky White**" (a thermal set TGIC Polyester Powder Coating), for a total of 5 mils.

2.05 FOUNDATION

- A. Prepare the site in accordance with NCTCOG specifications for Site Preparation. Proof-roll the exposed subgrade with a heavy rubber tire vehicle such as pneumatic-tire roller or loaded dump truck. If encountered, soft or wet soils should be undercut and replaced with compacted backfill having similar classification, moisture, and density as adjacent competent in situ soils.
- B. The foundation will consist of a fine gravel filled retainer ring to be constructed as shown on the plans. The entire foundation area is to be cleaned and the subgrade cleared to not less than 6" below grade and compacted to 95% standard proctor density with select material.
- C. The sand fill shall be installed after the concrete ring is constructed and filled with a minimum 4-inch layer free of clay lumps, and no size less than 10% passing a 200-mesh sieve. The sand shall then be wetted down and compacted by a power-driven hand tamper.

3.0 DESCRIPTION OF WORK

3.01 CONSTRUCTION

- A. Field erection of the bolted steel tank shall be in strict compliance with the manufacturer's recommendations and performed by manufacturer's employees or certified erection crew to alleviate any potential disputes in coating quality or erection thereof. Care shall be exercised in handling and bolting of the tank plates, supports, and members to avoid abrasion or scratching the coating. Prior to placing water in the tank, a "holiday" inspection of the entire tank, corners included, shall be provided, and performed by the manufacturer in the presence of the Owner. Touch-up coating shall be done per the manufacturer's recommendations where needed and as directed to achieve 100% holiday-free surface.

3.02 TESTING AND INSPECTION

- A. General: Test storage tank after erection. The floor shall be clean and free from dirt, foreign substances, and debris.
- B. Bottom: Vacuum test seams in floor plates.
- C. Shell: Test by filling with water to elevation of overflow. Completed storage tank shall show no leaks at end of 24-hour test period.
- D. Disinfection:
 - 1. General: After testing has been satisfactorily completed, the tank shall be disinfected.
 - 2. Standards: Disinfecting of interior surfaces shall be performed in accordance with AWWA C652-86. After disinfection, the Owner shall take a water specimen for bacteriological test.
 - 3. After disinfection, the tank shall be filled to the overflow level and allowed to stand for 5 days, minimum. After 5 days, the Owner shall take water specimens for V.O.C. test. The tank may be placed into service once acceptable test results are received.

3.03 WARRANTY

- A. The tank manufacturer shall warrant the tank against any defects in workmanship and materials for a period of two (2) years from the date of final construction acceptance by the Owner.

END OF SECTION

HYDROPNEUMATIC PRESSURE TANK ACCESSORIES

1.0 DESCRIPTION

1.01 SCOPE

- A. This specification covers the furnishing of all labor, material, equipment, tools, services to complete and make operational an existing hydropneumatic pressure tank.

2.0 PRODUCTS

2.01 TANK ACCESSORIES

- A. Pressure Gauge: $\frac{3}{4}$ -inch NPT connection; 0-150 psi.
- B. Pressure Relief Valve: $\frac{3}{4}$ -inch NPT connection; 0-150 psi pressure relief valve set at 75 psi.
- C. Sight Glass: Sight gauge shall be rated at 250 psi, four feet (4'-0") in length and centered to allow the determination of the air-water-volume ratio. The sight glass shall be installed in the existing building. The 1-inch pipe lines connecting the sight glass to the hydropneumatic tank shall be installed as an accessory part to this bid item. The pipe lines shall be connected to the top and the bottom of the tank at the existing 1-inch couplings on the end of the hydropneumatic tank nearest the building. The pipe lines shall be completely insulated following installation.
- D. Compressor: 2-inch NPT connection; an Air-Rite Model 610 HP shall be installed in strict accordance with the manufacturer's instructions.

3.0 DESCRIPTION OF WORK

3.01 TESTING AND INSPECTION

- A. General: Test tank for water leaks.
- B. Disinfection:
 - 1. General: After testing has been satisfactorily completed, the tank shall be disinfected.

2. Standards: Disinfecting of interior surfaces shall be performed in accordance with AWWA C652-86. After disinfection, the Owner shall take a water specimen for bacteriological test.
3. The tank may be placed into service once acceptable test results are received.

3.03 WARRANTY

- A. The contractor shall warrant the accessories against any defects in workmanship and materials for a period of two (2) years from the date of final construction acceptance by the Owner.

END OF SECTION

ELECTRICAL

1.0 GENERAL

1.1 GENERAL REQUIREMENTS FOR ELECTRICAL WORK

- A. Power shall be 460-Volt, 3-phase, 4-wire service.
- B. Products and execution instructions provided on drawings and in Item specific sections shall supersede this general electrical specification. Contractor shall notify Engineer in the event of any omission or conflicting information in electrical design, either in appropriate material size, scope related to the equipment or operator safety, or work that is perceived critical to the function of the connected equipment.

1.2 LUMP SUM

- A. A lump sum will be made for electrical as it relates to the item in which it is referenced. This shall apply to all wiring, conduit (where not specifically separated into another bid item), materials, sealing, connection, and testing.

2.0 PRODUCTS

2.1 ELECTRICAL SERVICE

- A. Secondary Service Conductors - As specified under CONDUCTORS in this title.

2.2 CONDUCTORS

- A. Conductors (600 volts and under)

- 1. Type

- Soft drawn, annealed copper, UL listed, rated at 600 volts, continuous without weld, splice, or joint, uniform cross-section, free from flaws, scale and other imperfections, Okonite, Triangle, Anaconda, or Simplex. No. 8 and larger shall be stranded No. 10 and smaller shall be solid.

- 2. Insulation

- Branch circuits shall have type TW, THW, THHN, or RHW insulation unless the type is specifically designated or specified. Feeder circuits shall be type THW, THWN, OR THHN.

- 3. Circuits Subjected to High Temperatures

- Type RHH conductors shall be used for motors and devices subject to high temperature because of high ambient temperature or convection or radiant heat.

4. Lighting Fixture Conductors

Type and size approved by the NEC for the purpose.

5. Joints and Splices

6. Stranded Copper Conductors

UL approved solderless bolted pressure connectors or Thomas and Belts Series 54000 compression connectors. All connectors shall be of proper sizes to match conductor sizes. All compression connectors shall be applied with properly sized dies and tools. Split bolt connectors are not acceptable.

7. Solid Copper Conductors

UL approved solderless bolted pressure connectors or UL approved electrical spring connectors of Scotchlock, Ideal or T & B Piggy make. All connectors shall be of proper sizes to match conductor sizes. Split bolt connectors are not acceptable.

B. Color Coding

Use standardized color-coding of conductors throughout. All color coding shall be continuous for the entire length of the conductors and shall be permanent and readily distinguished after installation. In cases where the specified colors of insulated wire and cable are unavailable, such conductors shall be color-coded, as specified above, by means of Brady, or equivalent, slip-on colored plastic sleeves or plastic tape at all pull boxes, support boxes, outlet boxes, panel boards, and other terminal and splicing points.

Phase conductors shall be black, blue, and red for 230-volt system.

Phase conductors shall be brown, orange, and yellow for the 460-volt system.

2.3 ELECTRICAL DISTRIBUTION

A. Disconnect Switches

Unless otherwise noted or required, all disconnect switches shall be UL listed and shall meet NEMA standard KS1 1969 for Type HD heavy duty switches. Switches shall be unfused unless noted otherwise, quick make, quick break in NEMA 3R enclosures if exposed to the weather; elsewhere in NEMA 1 general purpose enclosures unless special enclosures are required. All motor circuit switches shall be horsepower rated. Where Class "R" fuses are specified below, provide appropriate Class "R" fuse clips.

Where space does not permit use of the above specified switches, such as within weatherproof fan housings, etc., use suitable horsepower rated tumbler switches as unfused disconnects; General Electric Type RB or equivalent.

Where disconnect switches are used to disconnect starters, provide auxiliary poles in switches as required to disconnect all auxiliary control circuits in starters.

B. Panelboards

Furnish and install cabinets to serve various panelboards, of sizes as required. Rigidly constructed of sheet steel of gauge conforming to UL requirements; corners overlapped or welded; edges turned over to receive trim. Cabinet fronts shall be cut from a single sheet no less than No. 12 gauge cold rolled sheet steel; fastened by adjustable trim clamps which will allow plumbing; same size as the cabinet box if surface mounted; size to overlap the box a minimum of 3/4" on all sides if flush mounted. Provide each door with a substantial flush, cylinder tumbler lock and catch. On doors more than 48" high provide a combination three point catch and lock with T-handle. Provide each lock with two keys, with all locks keyed alike. All back boxes shall be galvanized; all exposed metal including fronts, primed and finished in gray lacquer. Mount all panelboards in cabinets specified herein. Where a circuit protective device is scheduled as a "spare", provide the device complete for operation. Where such a device is scheduled as a "space" or "space only", provide proper space and all necessary connectors for future installation of the size of device scheduled to serve a "future" load. Where a breaker switch is scheduled to serve a "future" load provide the device complete for operation.

All circuit breakers shall be quick make, quick break, trip free, thermal magnetic, indicating type unless otherwise noted. Provide all multiple pole breakers with common trip and single operating handle; handle ties between breakers are unacceptable. Branch circuit breakers shall be fully interchangeable without disturbing adjacent units. Connect all circuit interrupting devices with sequence phasing.

Provide each panelboard with a neatly typewritten directory of circuits mounted in a cardholder on the inside of the panelboard cabinet. Cover directory with transparent sheet plastic. All panelboards shall be listed by UL and the building main panel shall be listed as suitable for "Service Entrance Equipment". Provide each panelboard with a factory engraved nameplate which shall identify the panel board name.

C. Lighting and Appliance Panelboards

Panelboards shall have the number and size of bolted-in circuit breakers as scheduled. Panels shall be of General Electric, Square D, Cutler-Hammer or manufacturer, equivalent to the Square-D panels listed below. Where a lighting and appliance panelboard contains more than 42 branch overcurrent devices, the assembly shall consist of two or more separate boxes bolted together and covered by a common multiple door front; each box containing not more than 42 branch overcurrent devices.

Panelboards for 208- and 240-volt Service: Square D type NPOD. Panelboards for 480-volt service: Square D type NEHB.

2.4 WIRING DEVICES

A. Acceptable Manufacturers

Manufacturers: The catalog numbers listed herein are generally of Hubbell manufacture. Equivalent devices of Arrow Hart, Pass and Seymour or General Electric are also acceptable.

B. Classification

All wiring devices shall be "Specification Grade" and shall be UL listed.

C. Colors

All devices shall have a white finish where mounted in walls finished in light colors and a brown finish where mounted in walls finished in dark colors.

D. Wall Switches

For loads not exceeding 1500 watts 120 volts or 3000 watts at 277 volts:

<u>Device</u>	<u>Hubbell Catalog No.</u>
a. Single pole wall switch	1201 or 1201 I
b. Three-way wall switch	1203 or 1203 I

<u>Device</u>	<u>Hubbell Catalog No.</u>
a. Single pole wall switch	1221 or 1221 I
b. Three-way wall switch	1223 or 1223 I

E. Receptacles

Receptacle, 15 ampere, 125 volt, 2 pole, 3 wire grounding duplex: Hubbell No. 5262 or 5262 I (NEMA 5 15R).

F. Coverplates

Provide cover plates for all wiring devices, telephone, signal outlets and other kindred devices.

For Surface Mounted Devices (High humidity conditions) – Stainless Steel with gaskets.

For Surface Mounted Devices (Indoors/Outdoors, general purpose) - Zinc coated sheet metal with rounded or beveled edges, of same size as boxes, for indoor use cast alloy plates with gaskets for outdoor use.

2.5 RACEWAY AND FITTINGS

A. Conduits (unless shown otherwise on plans)

1. Schedule 40 and 80 PVC Conduit

Heavy wall, high impact rigid virgin polyvinyl chloride (PVC) conduit and fittings, conforming to NEMA Publication TC-2 and TC-3, UL 651 and Fed. Spec. WC 1094A and UL listed for direct burial use; Carlon or equivalent.

2. Rigid Steel Conduit

Rigid, threaded, thick wall; galvanized inside and outside or galvanized outside with a protective coating inside; UL listed and labeled according to Standard UL6; conforming to ANSI standard C80.1; Pittsburgh, Republic Steel, Robroy or Allied.

3. Electrical Metallic Tubing (EMT)

Steel tubing, galvanized outside and provided with a slick corrosion resistant interior coating; UL listed and labeled according to Standard 797; conforming to ANSI Standard C80.3; Pittsburgh, Republic Steel, Robroy or Allied.

4. Intermediate Metallic Conduit (IMC)

Rigid, threaded, thin wall steel, galvanized outside with protective coating inside; UL listed and labeled according to Standard 1242 Allied, Republic Steel, or equivalent.

5. Flexible Metal Conduit

Spirally wound with hot dip galvanized steel strips (commercial Greenfield); conforming to UL Standard UL 1 and UL listed and labeled; Triangle Conduit and Cable Company, or equivalent.

6. Liquidtight Flexible Metal Conduit

Spirally wound, galvanized steel strips, as for flexible metal conduit with polyvinyl chloride cover extruded over the exterior to make conduit liquid tight; UL listed Electric flex type "LA" or equivalent.

7. PVC Coated Steel Conduit

The conduit before coating shall conform to Standard UL6 and ANSI Standard C80.1. The conduit after coating shall meet NEMA Standard RN1-1974. The polyvinyl chloride coating shall be bonded to the galvanized outer surface of the conduit. The coating shall be a minimum of .020 inches (20 mil). A loose coupling shall have a PVC coating bonded to the outer surface with a PVC sleeve extending from both ends such that when the coupling and conduit are joined there shall be no exposed metal. Conduit shall be "Rob Kote" as manufactured by Robroy Industries or "Ocal 20" as manufactured by Occidental Coating Company.

8. Conduit Fittings

a. Couplings and Termination for Rigid Steel Conduit

Factory made steel threaded couplings bushing at all boxes and cabinets, with locknuts inside and outside box or cabinet. Provide insulated bushings on all circuits #4 AWG and larger.

b. Couplings and Terminations for Electrical Metallic Tubing

Join lengths of EMT with steel compression coupling. Attach EMT to boxes or cabinets with steel compression type box connectors having an insulated or smooth throat with locknuts. Where grounding bushings are required at terminations, they shall be T & B Series 3802, or equivalent. Set screw type connectors, indent or die cast connectors will not be allowed. Provide insulated bushings on all circuits #4 AWG and larger.

c. Couplings and Terminations for Intermediate Metal Conduit

Same as for rigid steel conduit. Couplings and Terminations for Flexible Metal Conduit: T & B 440 Series couplings at connections between flexible and rigid conduit; T & B 3110 or 3130 Series nylon insulated throat, steel connectors at box or cabinet terminations.

d. Coupling and Terminations for Liquidtight Flexible Metal Conduit

T & B 5271 Series adapters at connections between flexible and rigid conduit T & B 5331 Series nylon insulated throat, steel connectors at box or cabinet terminations.

9. Wireways

a. Interior Use

UL listed; enamel finished sizes shown or required screw covers complete with all fittings couplings, bangers and accessories; Square D, General Electric, or equivalent.

b. Exterior Use

UL listed; enamel finished; sizes shown or required, removable front cover which is gasketed weatherproof rain hood.

10. Outlet Boxes

UL listed of sizes and types specified.

a. Sheet Steel Boxes

Sheet steel not lighter than No. 14 gauge, galvanized after fabrication Raco, Steel City of Appleton.

b. Cast Metal Boxes

Cast iron or cast alloy with threaded hubs; Crouse Hinds, Appleton or Pyle

National.

c. Boxes for Hazardous Areas

Cast metal boxes approved for the location in which used.

11. Pull Boxes and Junction Boxes

Sheet steel galvanized inside and outside, with galvanized covers.

a. Small Boxes

For boxes where the volume required is not over 100 cubic inches, use standard outlet boxes.

b. Larger Boxes

For boxes where the volume required is over 100 cubic inches, use cabinets as specified for panel board cabinets with covers of same gauge as boxes, secured with corrosion resistant bolts or screws.

2.6 MOTORS AND EQUIPMENT CONTROLS AND WIRING

A. Motors

All motors will, unless otherwise noted, be furnished under other sections of the specifications, or will be furnished by the Owner. Where motors are mounted integrally with items of equipment, they will be erected in place with such equipment ready for electrical connection such erection is not a part of the work under this Section. Where motors are to be installed as separate items, their foundations, anchor bolts and other provisions necessary to their erection will be provided as a part of the work of the Section under which they are furnished their erection and final setting are a part of the work of this Section and shall be done by specially skilled millwrights or similar craftsmen.

2.7 LIGHTING

A. Interior Lighting Fixtures

Provide and install a lighting fixture on each lighting outlet shown. Furnish fixtures in accordance with the designations and type specified on the drawings.

Should any designations be omitted on the drawings, furnish fixtures of the same type as used in rooms of similar usage. All features specified or scheduled for fixture shall be provided, even if the catalog number given in the specifications or schedule lacks the required numerals, prefixes or suffixes corresponding to the features called for.

B. Fixtures

All lighting fixtures shall bear the label of Underwriters' Laboratories, Inc. Furnish scale

drawings, catalog data, samples of finish, distribution curves, and any other data required by the Engineer for every type of fixture.

C. Lenses

Wherever acrylic lenses are specified or noted, the material used shall be virgin acrylic with a minimum thickness of 0.125 inches.

D. Lamps

Fully equip each fixture with a full set of new lamps at the completion and acceptance of the work lamps shall be of the best grade, and of the sizes and types specified General Electric, Westinghouse, or Sylvania.

3.0 EXECUTION

3.1 ELECTRICAL SERVICE

A. Service Connections

The power company will furnish an overhead service drop for lighting and power at the point shown on the drawings. Furnish and install a suitable service rack or anchors and insulators as required by the power company, and as approved by the engineer. Also furnish and install suitable service entrance conduits and extend conduit and service feeders from there to the main service equipment as shown on the drawings.

B. Metering

Furnish and install on the service pole or wall as shown, a weatherproof meter base for the type and size as directed by the power company.

C. Systems of Wiring

Electrical Service
460-Volt, 3-phase, 60 hertz

3.2 CONDUCTORS

A. Wire Pulling

Provide suitable installation equipment for pulling conductors into raceways or conduits. Use ropes of polyethylene, nylon or other suitable material to pull in conductors. Attach pulling lines to conductors by means of woven basket grips or by pulling eyes attached directly to conductors.

All conductors to be installed in a single conduit shall be pulled in together. Pull no conductors into conduits until all work of a nature which may cause injury to conductors is completed. Use an underwriters' listed cable pulling compound where necessary.

B. Cable Lubricants

All cable lubricants shall be UL listed and shall be certified by their manufacturer to be non-injurious to the insulation on which they are used.

C. Pulling Devices in Empty Raceways

Provide in every empty raceway, not containing conductors to be installed by this Contractor, a suitable pull line to facilitate future installation of wiring. Lines shall be free from splices and shall have ample exposed length at each end. Identify each end of each line with a linen tag bearing complete information as to the purpose of the raceway and the location of its other end. All lines shall be nylon or polyethylene cord with a tensile strength not less than 200 pounds.

150lb pull string shall be placed in all conduits containing a single wire/cable and all spare conduits for future use.

D. Installation of Building Wire (600 Volts and Under)**1. Feeders**

Run all feeders their entire length in continuous pieces without joints or splices, insofar as practicable. Make joints in branch circuits only where circuits divide as shown on drawings. Such joints shall consist of one through circuit to which shall be spliced the tap circuit.

2. Branch Circuits

Not more than one power or lighting circuit shall be installed in a single conduit, except that one 3 wire circuit or one 4 wire circuit consisting of 2 different phase wires and a common neutral or 3 different phase wires and a common neutral may be installed in a single conduit. This provision shall not prohibit the installation in a single conduit of all conductors of a circuit with three and four-way switching.

3. Sizes

No wire shall be smaller than No. 12 except for signal or control circuits, and except for individual lighting fixture taps as permitted by the National Electrical Code.

4. Receptacle and Motor Branch Circuits

No. 12 conductors unless noted or scheduled otherwise.

Power and Lighting circuits of different system voltages (e.g. 208Y/120 and 480Y/277 volts) shall not occupy the same conduit.

5. Joints and Splices

Make joints and splices only where necessary and only at outlet boxes and pull boxes. All joints shall be mechanically and electrically secure. After a joint or splice is complete, insulate it with Okonite rubber tape, and Manson friction tape to make the insulation of the joint or splice equal to that of the conductor. In lieu of this, 3M Company's "Scotch" No. 33 vinyl plastic tape may be used if applied in at least four layers (half lapped in two directions), with all larger splices, terminals, sharp corners and voids being first protected by application of "Scotchfill" insulating putty.

Conductor splices in wet locations shall be made in accordance with the conductor manufacturer's recommendations.

6. Identifying Tags

Non-ferrous stamped to clearly identify each circuit. Securely fasten tags to all cables, feeders and power circuits in pull boxes, lighting power and distribution panel boards, etc.

7. Bundling Conductors

Bundle all conductors in panel boards, cabinets and the like, using marlin twine lacing or nylon straps made for the purpose. Bundle conductors larger than No. 10 in individual circuits. Bundle smaller conductors in larger groups.

3.3 ELECTRICAL DISTRIBUTION

Furnish and install all fuses necessary for leaving the installation complete and in working order, including a complete set of fuses in each spare switch. Place a fuse identification label, showing, type and size of the required fuses, inside the door of each enclosure requiring fuses. Fuses shall conform to the latest NEMA Standards and shall be UL listed and labeled (except as noted otherwise). They shall conform to the UL classes listed hereinafter. Voltage ratings shall be suitable for the systems to which the fuses are applied. Where the spacing of fuse clips in equipment is greater than required by the proper size of fuse, use suitable fuse reducers to fit the fuses.

Fuses shall be of the classes and types listed below:

Type LP:	Class RK-1; Bussman Type LPN-RK or LPS-RK "Low Peak"; or Chase-Shawnut Type A6D or A2D. Fuses shall be available in ratings 0-600 amperes, shall be current limiting dual element with time delay, and shall have interrupting rating of 200,000 RMS symmetrical amperes. Fuses shall be equipped with slotted blades, and switch fuse clips shall be provided with matching NEC fuse rejection feature.
----------	--

3.4 WIRING DEVICES

A. Circuit Identification

At each wiring device, install a label on the inside of the cover plate which shall identify

the panel and circuit number to which the device is finally connected. The labels shall be made on the job with indent type Dynamo adhesive tape. Attach the label to the plate with contact cement or other suitable adhesive material. In lieu of a label, the panel and circuit number may be marked on the inside of the cover plate with an indelible pencil.

B. Mounting Heights

Where mounting heights are indicated on the drawings, the device shall be installed with the centerline of the device at the indicated height.

In general, devices which are shown to be installed at counters or other millwork shall be installed above the counter or millwork, unless noted. Wall switches shall be installed on the strike side of the door as finally hung.

Unless otherwise noted on the drawings, or directed by the Engineer, install devices at the following heights:

<u>Device</u>	<u>Mounting Height</u>
Wall Switch	4'6"
Receptacle	12"

C. Device Mounting

Wall switches shall be located within 6 inches of door frames. Provide suitable clips, hangers, supports, supplemental metal studs or framing materials as required to achieve the specified switch location. Where multiple switches are shown provide the appropriate ganged boxes with interior partitions where required and single piece cover plate. Where multiple devices are shown at a single location (i.e. switches, dimmers, volume controls, thermostats, etc.) coordinate the installation of the devices to achieve a single uniform mounting height with all devices grouped as close as possible.

3.5 GROUNDING

A. Service and Equipment Grounding

Provide adequate and permanent service neutral and equipment grounding in accordance with the National Electrical Code, and subject to the following additional requirements.

Connect the service ground and equipment ground to a common point within the metallic enclosure containing the main service disconnecting means. From the common point of connection of the service ground and equipment ground, run in conduit a combined service and equipment grounding conductor without joint or splice to the main water service pipe and connect it thereto with an approved bolted pressure clamp. Clean all contact surfaces thoroughly before connection, to assure good metal to metal contact. Where a dielectric fitting occurs on water main, connect the grounding conductor to the street side of the fitting. Bond the conduit to the grounding conductor at each end. Provide and install with ground clamps a No. 3/O copper jumper conductor around the water meter. Supplement the water pipe ground with an additional electrode which shall

be 10' long by 3/4-inch diameter copper clad steel ground rod. Attach the electrode to the water pipe and to the service equipment grounding conductor.

Size grounding conductors in accordance with National Electrical Code Tables 250 94 and 250 95.

The building structural steel frame shall be grounded to the building service grounding electrode, using the conductor size specified in National Electrical Code Section 250 94(a).

B. Grounding Raceways

Assure the electrical continuity of all metallic raceway systems, pulling up all conduits and/or locknuts wrench tight. Where expansion joints or telescoping joints occur, provide bonding jumpers. Where flexible metallic conduit is employed, provide a green insulated grounding jumper installed in the flexible conduit. Install a separate green insulated conductor in each nonmetallic conduit.

Provide grounding bushings on all raceways terminating within switchboards, motor control centers, panel boards, cabinets, and all other enclosures where the conduit is not in direct electrical contact with the metallic enclosure. Provide grounding conductors from such bushings to the frame of the enclosure and to the ground bus or equipment grounding strap. Size grounding conductors in accordance with NEC Table 250 95.

C. Equipment Grounding Conductors

Provide a separate, green insulated copper grounding conductor, with insulation of the same rating as phase conductors, for each feeder and for each branch circuit indicated.

Install the grounding conductor in the same raceway with the related phase and neutral conductors and connect the grounding conductor to pull boxes or outlet boxes at intervals of 100 feet or less. Where paralleled conductors in separate raceways occur, provide a grounding conductor in each raceway. Connect all grounding conductors to bare grounding bars in panel boards, and to ground buses in service equipment to the end that there will be an uninterrupted grounding circuit from the point of a ground fault back to the point of connection of the equipment ground and system neutral. Size all grounding conductors per NEC Table 250 95.

3.6 RACEWAY AND FITTINGS

A. Conduit Uses

Rigid steel conduit may be used in all areas unless noted otherwise.

Intermediate metallic conduit (IMC) may be used in all interior locations not in contact with earth unless noted otherwise.

Electrical metallic tubing (EMT) may only be used in interior dry locations not subject to damage, not in contact with earth and not in concrete, unless noted otherwise.

Schedule 40 or 80 PVC conduit may be used underground, in or below concrete. SCH40 shall be used in cover > 30" and for general control and secondary power below and above ground, if not specifically noted otherwise on the drawings. Primary service shall utilize SCH80, and all conduit < 30" shall be SCH80.

Flexible steel conduit may only be used in indoor non-hazardous dry locations for connections to equipment and vibration isolation. Flexible steel conduit of 3/8 inch trade size may only be used for lighting fixture taps and shall not exceed 6 feet in length. Liquid tight flexible steel conduit shall be used in all outdoor locations and indoor damp or wet locations for equipment connections and vibration isolation.

B. Excavation

Perform all excavation work required in connection with the installation of the work under this Division. After the electrical work has been installed, tested, and approved, backfill all excavations with suitable material under the direction of the Architect. Include the cutting of all sidewalks, streets and other pavement and repairing the openings in them to return to the surface to approximately its original condition.

Perform all excavations of every description of whatever substances encountered and to the depths required for installation of the work under this Division.

During excavation, stack material suitable for backfilling in an orderly manner a sufficient distance from the banks of the trenches to prevent slides or cave ins. Remove all excavated material not required or suitable for backfill, or waste as directed. Control grading to prevent surface water from flowing into excavations and remove any water accumulating therein by pumping.

Use open cut grading and make trenches of the necessary width for proper installation of the lines with banks as nearly vertical as possible.

Grade the bottom of trenches accurately to provide uniform bearing and support for conduit or duct on undisturbed soil at every point along its entire length.

Except at locations where excavation of rock from the bottoms of trenches is required, take care not to excavate below the depths required. Where rock excavation is required, remove the rock to minimum over depth of 4 inches below the trench depths specified. Backfill the over depth rock excavation and all excess trench excavation to the proper level with 3/4-inch crushed rock or the equivalent in coarse gravel prior to the installation of conduit or ducts.

Whenever wet or otherwise unstable soil that is incapable of properly supporting conduits or ducts is encountered in the trench bottom, remove such soil to a depth required and backfill the trench-to-trench bottom grade with 3/4-inch crushed rock or coarse gravel or other suitable material.

C. Backfilling

Carefully backfill trenches with earth, sandy clay, sand and gravel, soft shale or other approved material free from large clods of earth or stone, deposited in thoroughly and carefully rammed 6-inch layers. Do not use blasted rock, broken concrete or pavement, or large boulders as backfill material. Settling the backfill with water will be permissible and will be requirement when so directed. Reopen any trenches improperly filled or where settlement occurs to the depth required for proper compaction, then refill, mound over and smooth off.

Backfill open trenches across roadways or other areas to be paved as specified above except that the entire depth of trench shall be backfilled in 6-inch layers, each layer moistened and compacted to a density of not less than 90% Standard Proctor in such manner as to permit the rolling and compaction of the filled trench together with the adjoining earth to provide the required bearing value and permit paving of the area immediately after backfilling is completed. Along all other portions of the trenches, grade the ground to a reasonable uniformity and leave the mounding over the trenches in a uniform and neat condition.

Where backfill depths of 30" cannot be achieved, contractor shall pour a 4" thick concrete cap atop the conduit. This cap shall extend at least 6" from the outside edge of the conduit. The concrete cap shall be poured using red concrete.

D. Marking Tape

A non-detectable marking tape shall be placed in the trench during backfilling along the centerline, approximately 10-12" above the conduit, unless shown otherwise on the Drawings. The tape shall be of a color and have markings that identify the specific conduit/wire use.

E. Installation of Underground Plastic Conduit

Install at least 30 inches below finished grade unless noted to the contrary. Assemble and install raceways in accordance with manufacturer's instructions. Make joints with couplings and solvent cement. Fabricate bends of 30 degrees or more with factory made elbows or make field bends with proper heating equipment. Bends showing signs of overheating or flattening are unacceptable. Ream ends of all conduits before joining.

"Snake" plastic conduits in trench, from side to side, with a complete cycle every 40 feet to allow for expansion and contraction. Maintain this configuration during backfilling.

Where conduit turns up out of earth through floor slabs, or turns up into pole bases or concrete mats, etc., change from plastic to rigid galvanized steel conduit below grade and outside of such structures. Do not extend any plastic conduit above grade except where branch circuits concealed in walls are allowed to be PVC to the first outlet box (not to exceed 24 inches). Make similar change from plastic to rigid galvanized steel conduit at connections to underground pull or junction boxes. Wrap all steel conduits and fittings buried in earth as specified elsewhere herein or use PVC coated steel conduits.

F. Installation of Underground Steel Conduit

All steel conduits in earth shall be rigid galvanized steel conduit. Wrap such conduit with 3M Company 0.020-inch-thick No. 51 "scotch rap" vinyl plastic tape, half lapped to give a double thickness wrap. Remove all oil, grease and dirt from conduit with a suitable solvent, and clean and dry conduit before wrapping. If conduit is prewrapped in the shop and then cut and joined on the job, wrap all joints on the job, overlapping pipe wrapping 3" on both side of joints.

G. Installation of PVC coated Conduits

During installation, visually examine the conduit for cuts. Patch these areas with a paste containing a PVC solvent obtained from the conduit manufacturer. The patch shall be built up to the original thickness of the coating and feathered out on all side of the damaged area a minimum of 2 inch to provide a complete bonded seal over the damaged area.

H. Installation of Building Raceways

All wiring of every description shall be run in conduit or electrical metallic tubing unless noted or specified otherwise. Conduits may be run exposed in machinery and electrical rooms and unfinished areas. All other conduits shall be run concealed unless otherwise noted. All exposed runs shall be installed parallel to the surface or the building in a neat and orderly manner.

1. Sizes

Size and install raceways so the conductors may be drawn in without injury or excessive strain. Make field bends with approved bending devices. Do not install bends or offsets in which conduit is crushed, deformed, or otherwise induced. PVC 90-degree bends shall utilize long radius elbows, where spacing and depth allows.

2. Connections

Use lengths of flexible metal conduit, not less than 12" long at final connections to all motors, generators, controls and other devices subject to movement because of vibration or mechanical adjustment. Use flexible metal conduit also at connections to recessed lighting fixtures, and elsewhere as required. In damp or wet locations, and where installed outdoors, use liquid tight flexible metal conduit.

3. Around Heat Producing Equipment

Do not install raceways within 3" of steam and hot water pipes, breeching and flues, except, where crossings are unavoidable, and then keep raceways at least 1" from insulation on the pipe, breeching or flue crossed. Wherever possible, avoid installing raceways directly above or in close proximity to boilers and other like objects operating at high temperatures.

4. Damp or Wet Locations

In damp or wet locations make every effort to avoid installing raceways in a manner

which will create moisture traps. Where they must be so installed, seal both ends of raceways with an approved sealing compound to prevent "breathing" and moisture condensation within the raceways.

5. Different Systems

In systems operating at more than 300 volts between phase conductors, where different phase conductors are to be run to a common gang wall switch box, install a separate conduit for each different phase wire and its return switch leg, and provide substantial barriers between adjacent switches in the box so that two different phase wires will not be the same compartment.

6. Joining Rigid Conduit

Join with threaded couplings. Ream out all conduit ends after threading. Secure rigid conduits at panel boxes, junction boxes, pull boxes, switchboards, support boxes, or sheet metal outlet boxes by galvanized locknuts, inside and outside, with insulating bushing inside. Un-threaded set screw type couplings or connectors are not acceptable in rigid conduit systems. No running threads shall be used anywhere in conduit systems.

7. Protection of Raceways

Seal ends of all raceways with blank discs ("pennies"), push pennies or other approved closets during construction. Do not pull any conductors into raceways until all plastering in the vicinity is completed. Swab out all raceways before pulling in conductors.

I. Conduit Supports

1. Support Spacing

Use minimum spacing as directed by National Electrical Code, but space hangers more closely where required by conditions.

2. Individual Conduits

Support conduits running vertically or horizontally with galvanized malleable iron one-hole clamps. Carry individually supported horizontal conduits 1 1/4" and larger on Kindorf No. 150 or Steel City No. C 149 hangers. Use no perforated strap iron as hanger material. Where conduits smaller than 1 1/4" are installed above metal lath and plaster ceilings or mechanically suspended dry ceilings of the non-removable type, they may be supported on ceiling runner channels. Where conduits smaller than 1 1/4" are installed above removable ceilings, attach them to the structure or bar joints where present) or support them on threaded hanger rods with clips. Do not use any wire to support conduits or to attach conduits to supporting members. Locate conduits a sufficient distance above the ceiling to permit removal of the ceiling panels. Locate them so as not to hinder access to mechanical and electrical equipment through the ceiling panels.

3. Multiple Conduits

Where multiple raceways are run horizontally at the same elevations, they may be supported on trapezes formed of sections of Unistrut angle iron or channels suspended on rods or pipes. Size trapeze members including the suspension rods for the number size and loaded weight of the conduits they are to support. Space them as required for the smallest conduit supported.

J. Installation of Outlet Boxes

1. Usage

Provide at each outlet or device of whatever character a metal outlet box in which conduits shall terminate.

2. Boxes recessed in construction - Sheet steel boxes.

3. For Lighting Fixture Outlets

4" octagonal with 3/8" fixture stud for incandescent lights which are surface mounted, wall mounted or suspended.

4. For Wall Switches, Receptacles and Communications Use

Use 4"x4" size with proper square cornered tile wall cover, Plaster cover, or finishing plate, except larger where construction will not permit, or the device requires a box.

5. Boxes for Exposed Work - Cast metal boxes.

6. Boxes for Outdoors - Cast metal boxes with gasketed covers.

K. Installation of Pull and Junction Boxes

1. Sizing

Size all pull and junction boxes in accordance with NEC using larger sizes than required by code where job conditions so indicate.

2. Mounting

Fasten all boxes securely to the building construction, independent of conduit systems. On concealed conduit systems where boxes are not otherwise accessible, set box covers flush with finished surfaces for access.

3. Installation of Surface Raceways

Surface raceway shall be installed parallel to the wall line in a neat and orderly manner. The surface raceway shall be mounted using only such fasteners that are recommended by the manufacturer for the type of surface material encountered.

Paint raceway to match surface of installation.

3.7 MOTORS AND EQUIPMENT CONTROLS AND WIRING

A. Equipment Wiring

Connect complete for operation all items of pumping equipment and all other electrical devices furnished by the Owner or under other Divisions of the specifications. Outlets of various types have been indicated at equipment locations, but no indications of exact location or scope of the work are shown on the drawings. Refer to the owner and to the various Contractors for the work under the other Divisions for the scope of connections to equipment furnished by them and for the exact locations of all items. Request of the Owner and the aforementioned suppliers and contractors all rough in drawings required for proper installation of the electrical work, in ample time to permit preparation of the drawings and thus avoid delays on the job.

Where disconnect switches or circuit breakers are not provided integral with control equipment for motors and other electrical appurtenances, provide and install all disconnect switches required by the National Electrical Code and/or indicated.

3.8 LIGHTING

A. Installation of Interior Fixtures

Outlet box locations shown for fluorescent fixtures are diagrammatic. Locate boxes to coincide with stem hangers where such occur. Fixtures shall be level, square with the general construction and securely attached.

B. Surface Mounted Fixtures

Fixtures shall be installed flush with the ceilings. Where fixtures are mounted to an exposed grid ceiling, the fixtures may be clipped to the ceiling grid provided the attachment holds the fixture flush, level, and secure. Where they cannot be centered on a grid, install a structural member to span two tees and attach the fixture to the structural members.

Where fixtures are installed in a continuous row, the row shall be straight and plumb. Lens shall be aligned in all planes and no part of the lamp shall be visible.

END OF SECTION

**PART D – GRANT DOCUMENTS for TxC DG CONTRACT #CDV23-0466
(to be completed by awarded bidder)**

RESOLUTION No. 2 Regarding Civil Rights**The City of Carl's Corner, Texas**

Whereas, the City of Carl's Corner, Texas, (hereinafter referred to as "City of Carl's Corner") has been awarded TxCDBG funding through a TxCDBG grant from the Texas Department of Agriculture (hereinafter referred to as "TDA");

Whereas, the City of Carl's Corner, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;

Whereas, the City of Carl's Corner, in consideration for the receipt and acceptance of federal funding, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections;

Whereas, the City of Carl's Corner, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 75, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the Section 3 Service Area;

Whereas, the City of Carl's Corner, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;

Whereas, the City of Carl's Corner, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each TxCDBG project;

Whereas, the City of Carl's Corner, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and

Whereas, the City of Carl's Corner, in accordance with Section 808(e)(5) of the Fair Housing Act (42

USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period of the TxCDBG contract, to affirmatively further fair housing;

Whereas, the City of Carl's Corner, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARL'S CORNER, TEXAS, that:

The CITY OF GROVETON ADOPTS/REAFFIRMS The following policies:

1. Citizen Participation Plan and Grievance Procedures (Form A1013);
2. Excessive Force Policy (Form A1003);
3. Fair Housing Policy (Form A1015).
4. Code of Conduct Policy (Form A1002).

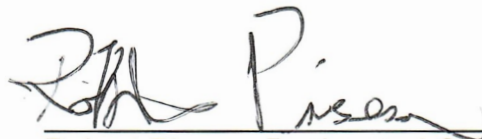
The City of Carl's Corner affirms its commitment to conduct a project-specific analysis and take all appropriate action necessary to comply with program requirements for the following:

6. Section 3 economic opportunity;
7. Limited English Proficiency; and
8. Activity to affirmatively Furth Fair Housing choice.

Passed and approved this 5th^t day of February, 2025.



Susan Ezell, Mayor
City of Carl's Corner, Texas



Robert Pinson, Designated Council Member
City of Carl's Corner, Texas

A. 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.

1. Minimum wages and fringe benefits

- i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) 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 classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must 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. Frequently recurring classifications

- A.** In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:
1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
 2. The classification is used in the area by the construction industry; and
 3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- B.** The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

- A.** The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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. The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- C. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- D. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- E. The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must 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.

iv. Fringe benefits not expressed as an hourly rate

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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

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, in accordance with the criteria set forth in 29 CFR 5.28, 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.

- vi. Interest** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, 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.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A.** A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B.** A contracting agency for its procurement costs;
- C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D.** A contractor's assignee(s);
- E.** A contractor's successor(s); or
- F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

A. Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

B. Information required Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

C. Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must 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.

D. Additional records relating to apprenticeship Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

C. Statement of Compliance Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working 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; and

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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
 - D. **Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the “Statement of Compliance” required by 29 CFR 5.5(a)(3)(ii)(C).
 - E. **Signature** The signature by the contractor, subcontractor, or the contractor’s or subcontractor’s agent must be an original handwritten signature or a legally valid electronic signature.
 - F. **Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
 - G. **Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iii. **Contracts, subcontracts, and related documents** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iv **Required disclosures and access**
- A. **Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
 - B. **Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.
 - C. **Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity

i. Apprentices

- A. Rate of pay** Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- B. Fringe benefits** Apprentices must 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, fringe benefits must be paid in accordance with that determination.
- C. Apprenticeship ratio** The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- D. Reciprocity of ratios and wage rates** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

- ii Equal employment opportunity** The use of apprentices and journeymen under this part must 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 must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

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 the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

i. By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or

iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms “laborers and mechanics” include watchpersons 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 he or she is employed on such work to work in excess of forty 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 forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).

3. Withholding for unpaid wages and liquidated damages

i. Withholding process The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

ii Priority to withheld funds The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A.** A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B.** A contracting agency for its procurement costs;
- C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
- D.** A contractor’s assignee(s);
- E.** A contractor’s successor(s); or
- F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- 5 Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
 - ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
 - iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
 - iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.
- C. CWHSSA required records clause** In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- D. Incorporation of contract clauses and wage determinations by reference** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- E. Incorporation by operation of law** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) 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 or her 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 29 CFR 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 U.S.C. § 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.

10.2.2 Section 3 Requirements

Section 3 of the Housing and Urban Development Act of 1968 requires that, to the greatest extent feasible, economic opportunity generated by CDBG funds and other HUD assistance, most importantly employment, is directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, as well as residents of the community in which the federal funds are spent.

HUD established benchmarks for Section 3 goals and expects the TxCDBG program to cumulatively report 25% of the total labor hours for grant-assisted projects each year as performed by Section 3 Workers; the HUD benchmark for Targeted Section 3 Workers is 5% of total labor hours worked. Failure to achieve these benchmarks requires additional justification by the state, which may necessitate additional information from Grant Recipients.

HUD's regulations for implementing Section 3 mandates can be found at 24 CFR Part 75. These administrative rules establish the requirements to be followed to ensure the objectives of Section 3 are met. Federal rules do not require Grant Recipients to contract or subcontract with a Section 3 business concern, nor do the rules require hiring of Section 3 workers. However, Grant Recipients must be able to demonstrate that, where possible, contracting, employment, and training opportunities were made available to workers and businesses meeting Section 3 designation criteria.

Applicability

Section 3 requirements apply to all TxCDBG grants unless otherwise identified by this Implementation Manual or the Grant Agreement.

- The requirements apply to the entire project that is funded with Section 3 covered financial assistance, regardless of whether the Section 3 project is fully- or partially-funded with CDBG assistance.
- All construction and administrative services contracts must comply with the programmatic requirements below.
- All work performed by employees of the Grant Recipient and its partners, regardless of whether force account cost reimbursement is requested, must comply with the programmatic requirements below.
- Section 3 goals and data reporting requirements generally do not apply to contracts for materials, planning, and professional services. Professional services include non-construction services that require an advanced degree or professional licensing (e.g., engineering, architecture, land surveying, accounting).

Section 3 Compliance

Grant Recipients must complete each of the following steps in order to be considered compliant with Section 3 programmatic requirements – key terms for these steps are described in the following sections:

Step 4: Facilitate specific employment opportunities for Section 3 Workers. If new employees are needed OR if vacancies exist for work on the TxCDBG-assisted project, the Grant Recipient and/or contractor must access the following resources to identify potential Section 3 employees—a printout of the results of the portal search in the local files is acceptable documentation of this effort. Grant Recipients and contractors are not required to employ Section 3 workers, nor to modify the qualifications or requirements of the position, but must demonstrate an effort to identify potential employees as appropriate, including documentation for any applicants that are Section 3 Workers.

- HUD's Section 3 Opportunity Portal - <https://hudapps.hud.gov/OpportunityPortal/search.action;>
- Texas Workforce Solutions - WorkInTexas.com; and
- Local Workforce Solutions Office (WIOA One Stop Shop), if applicable - <https://www.twc.texas.gov/directory-workforce-solutions-offices-services>.

Step 5: Ensure Contractor compliance.

- Include the required contract provision in all applicable contracting opportunities. See Appendices D and F.
- Collect records for all construction and administration service providers, including subcontractors, documenting the labor hours performed by each employee and the Section 3 status of each employee. Generally, this consists of payroll records and certification of status for each employee. A summary of this information must be reported to TDA as part of the Project Completion Report, and support documentation must be maintained in the local files.

Step 6: Additional Efforts. Record all additional efforts to ensure Section 3 Businesses have opportunity to compete for contracting opportunities, and that Section 3 Workers and Targeted Section 3 Workers have the opportunity to benefit from the TxCDBG assistance. These efforts support the state's explanation, should the program not meet the established benchmarks, and identify areas where the TxCDBG program could support Section 3 Business and Workers in the future. Examples include:

- Outreach efforts
- Training or apprenticeship opportunities
- Technical assistance to Section 3 Workers (multiple types)
- Technical assistance to Section 3 Business concerns
- Job fairs
- Divide contracts into smaller jobs
- Bonding assistance
- Other Business registries

Key Definitions

In order to meet the Section 3 reporting requirements, all workers for the project must be classified as one of three worker categories – report the most restrictive category that is appropriate for an individual worker:



Criteria for All Worker Designation

All individuals performing applicable work (labor hours) for the TxCDBG-funded project that do not meet one of the Section 3 designations are reported only under the All Workers category.

Criteria for Section 3 Worker Designation

To comply with Section 3 Reporting requirements, the Grant Recipient must determine whether each individual performing construction or administrative work on the project meets the criteria for a Section 3 Worker. A Section 3 Worker is any worker who currently, or when hired by the current employer within the past five years, fits at least one of the following categories:

- The worker's individual income for the previous or annualized calendar year is below the income limit for a family size of one (1) published on TDA's website for use in income surveys. Income limits are based on the county in which the employee resides. NOTE: information regarding family size or income from other family members is not required.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

Each Section 3 Worker's status must be documented with one of the following:

- A worker's self-certification that their income is below the income limit using the TxCDBG Income Survey Questionnaire, clearly marked in the **place field** as "Section 3 Income Only";
- A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- Certification from a public housing authority (PHA), or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- *Section 3 Status Summary Certification Form (Form A1022)*, certifying that each listed worker's income from that employer is below the income limit. This certification is based on a calculation of what the worker's wage rate would translate to if annualized on a full-time basis;
- *Section 3 Status Summary Certification Form (Form A1022)*, if the employer is a Section 3 business, identifying all workers for the project; or
- *Employer-generated document that includes the worker name and assignment of Section 3 status based on the employer's review of the annualized income of the worker, and is signed by the employer.*

Criteria for Targeted Section 3 Worker Designation

The Targeted Section 3 Worker reflects both statutory and policy priorities to direct employment and economic opportunities to low- and very low-income individuals.

For CDBG, the definition of a Targeted Section 3 Worker is a Section 3 worker that is

- employed by a Section 3 business (see Section 3 Business definition above); or
- a worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - Living within the service area of the project; or
 - A YouthBuild participant.

If reporting Targeted Section 3 Workers, mark the location of each Targeted Section 3 Worker's residence on the Service Area map. Employers must maintain the current address for each employee, and must provide this information upon request by TDA or other authorized agencies, while safeguarding as sensitive information.

Section 3 Service Area

To correctly identify Targeted Section 3 Workers, the Grant Recipient must first confirm the Section 3 Service Area. A Section 3 Service Area for a TxCDBG project is determined as follows:

- Identify the project site. For infrastructure projects, the project site is the area included in the

Environmental Review project description. The center point of this project site is the basis for the Section 3 Service Area.

- Identify a circle with a one-mile radius, with the project site central point as the origin.
- Calculate the population that resides within the one-mile circle. If less than 5,000 people according to the most recent U.S. Census, then aggregate census block group geographies totaling a minimum of 5,000 persons that both
 - surrounds all components of a Project Site, AND
 - most closely approximates a circle shape.

The Service Area map must include:

- Grant Recipient name and contract number;
- the project center point;
- a circle around that center point that is 1 mile circumference;
- if the population within the 1 mile circle is less than 5,000 persons –
 - labeled block group areas surrounding the center point that are being claimed for the service area;
 - a table or other documentation showing the census population in each of the block groups on the map, and the sum of those populations;
- If the population within the 1 mile circle is greater than or equal to 5,000 persons –
 - statement describing how this population was determined;
 - if applicable – labeled block groups and population data used to inform the Grant Recipient's determination that the population exceed the threshold.

For an example, see *Sample Section 3 Service Area (Form A1021)*. TDA has discretion to determine whether the geographies identified by the subrecipient are the appropriate Service Area, and to require revision if necessary.

Criteria for Section 3 Business Designation

One way to target grant funding to the workers that are described in HUD's Section 3 goals is to identify Section 3 Businesses. Section 3 Businesses must meet at least one of the following regulatory criteria, documented within the last six-month period:

- It is at least 51% owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the previous three-month period are performed by Section 3 Workers; or
- It is a business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

To register as a Section 3 Business, provide the required information for the HUD Section 3 Business registry at: [HUD Section 3 Business Registry](#).

Section 3 Business status will be reported once for each contract for services. Once a business is determined to be a Section 3 Business, the designation will remain in effect for the life of the contract for services. Records supporting this status must be made available upon request to TDA, HUD, or other state or federal authorized officials. Please redact Personally Identifiable Information (PII) from payroll records prior to releasing any documentation under this requirement. For construction contractor certified payroll reports, HUD requires first payroll on which each employee appears to include the employee's name and an individually identifying number. Afterward, the identifying number does not need to be reported unless it is necessary to distinguish between employees.

NOTE: Section 3 Businesses may only be selected in accordance with the procurement standards of Chapter 5—including price, ability, and willingness to comply with program requirements, to be considered lowest responsible bidders on contracting opportunities being sought. However, Grant

Recipients should make every effort to ensure that Section 3 Businesses are able to effectively participate in the opportunity. In turn, contractors and others should direct their efforts to award subcontracting opportunities generated from the expenditure of housing and community development financial assistance to Section 3 Businesses.

Appendix D
PART IV
TERMS AND CONDITIONS

19. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

c. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

d. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual.

Appendix F
GENERAL CONDITIONS - PART I
FOR CONSTRUCTION

45. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

- (a) The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- (c) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
- (d) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual.
- (f) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

CONTRACTOR CERTIFICATIONS

U.S. Department of Housing and Urban Development

CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS

INSTRUCTIONS

CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.

NAME AND ADDRESS OF BIDDER (include ZIP Code)

CERTIFICATION BY BIDDER

Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations.

☐ Yes

☐ No

The undersigned hereby certifies that:

☐ The Provision of Local Training, Employment, and Business Opportunities clause (Section 3 provision) is included in the Contract.

☐ The Equal Opportunity clause is included in the Contract (if bid equals or exceeds \$10,000).

Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

☐ Yes

☐ No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE

DATE

About

Neighborhood Service Area Definition Tool

This tool allows Housing and Community Development Section 3 Recipients to identify Targeted Section 3 Workers in accordance with [24 C.F.R. § 75.19](#).

Targeted Section 3 Workers are Section 3 Workers located within a one-mile radius of a Section 3 Project. If fewer than 5,000 people live within a one-mile radius of the project, then the radius is expanded until it is sufficient block groups are selected to encompass a population of 5,000 or more according to the most recent census.

Start the search by typing in the address of the Section 3 Project, the map will auto zoom to the selected address, highlight all block groups that are included - *in full or in part* - within the default 1 mile radius, and provide a sum of the populations all highlighted block groups. Use the slider bar to expand the radius of the circle until the block groups total a population 5,000 or higher. Population total shows green when you have reached the population threshold. Population numbers are from ESRI's U.S. Census Block Group Layer.

Section 3 Neighborhood Service Area

Search for an address or locate on map

100-1098 Linda Rd E, Milford, Texas, 76670

X

Q

Show results within 5 Miles



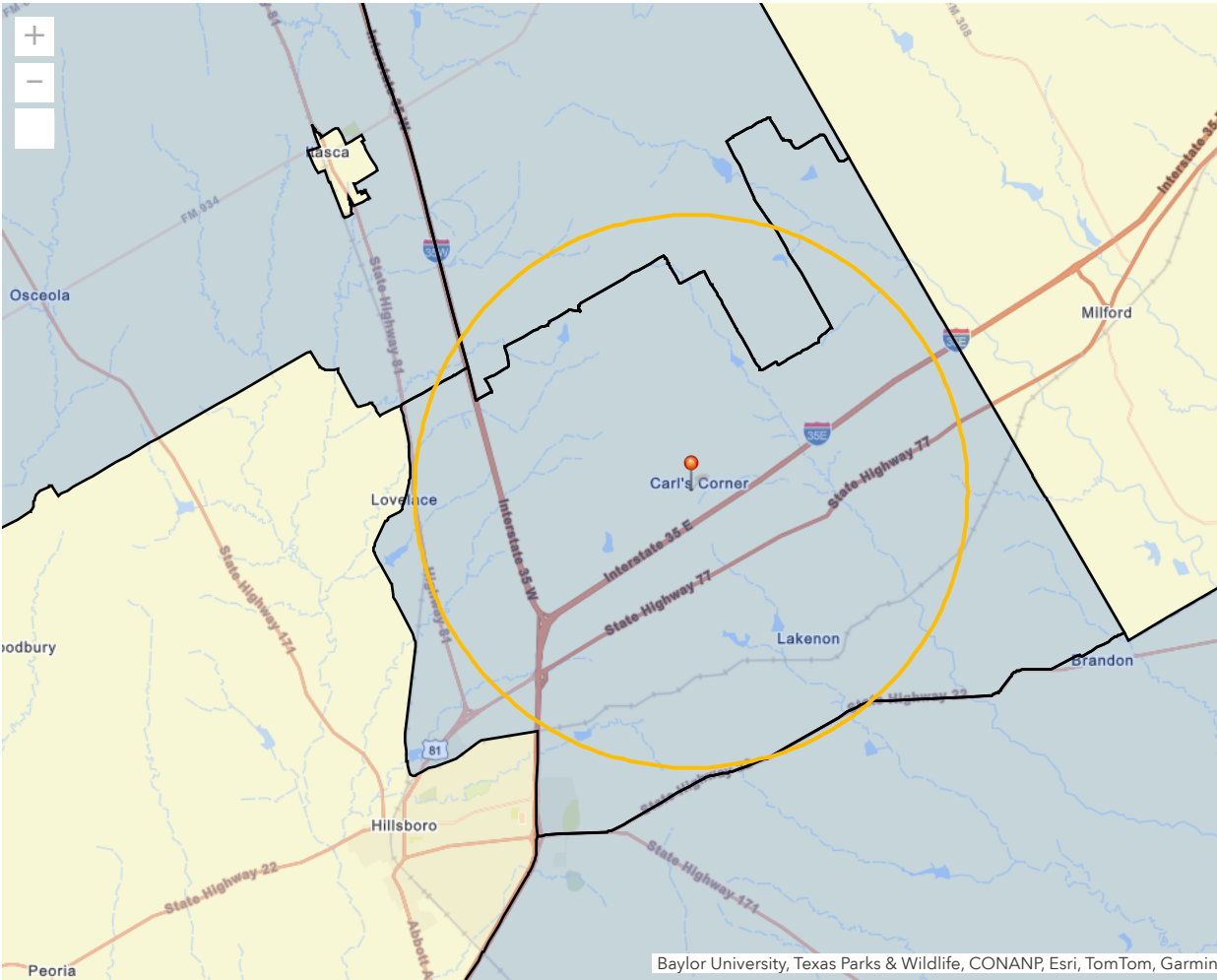
USA Census Block Group Boundaries

Block Group 482179611001 in TX	0 mi
Block Group 482179601002 in TX	2.53 mi
Block Group 482179601003 in TX	4.62 mi
Block Group 482179611002 in TX	4.87 mi

Population

✓ 6.489

Population of Census Block Groups Within or Intersected by



A1022 TxCDBG Section 3 Status Summary (2024 Income Limits)

Grant Recipient:

Grant No.

Business Name

County Name:

COG

Income LESS than:

List all employees that will work on the TxCDBG-assisted project.

Employee Name	Employee ID	Section 3 Status	Basis for Section 3 Status	Documentation Method for Section 3 Status

*Attach a map identifying the Section 3 Service Area and the residential address for each Targeted Section 3 Employee.

If this form serves as Employer Certification:

CERTIFICATION: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and this reporting measure is for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18 USC § 1001)

Signature of Employer

Section 3 Certification as S3 Business Concern

Business Information

Business Name	
Address of Business Headquarters	
County of Business Headquarters	
County of residence for 51% of employees	
Name of Owners /Operators	
Section 3 status of Owner/Operators	☐ Low-to-Moderate income ☐ Public Housing Resident ☐ None of the above

Labor Hours – Previous 3 Months*

Start Date of Reporting Period	
End Date of Reporting Period	
Total Number of Labor Hours – all work	
Number of S3 Labor Hours (work performed by LMI Persons and/or YouthBuild Participants)	
S3 Hours as percent of Total Labor Hours	

**Records supporting these hours must be made available upon request. Please redact Personally Identifiable Information from payroll records prior to releasing any documentation under this requirement. Employee ID numbers other than an employee's Social Security Number should be used to facilitate this expectation.*

CERTIFICATION: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and this reporting measure is for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title XXX).

Business Owner or Designee Name and Title (Print)	Signature	Date

Temporary Project Signage

All TxCDBG construction projects utilizing TxCDBG funding must have temporary signage erected in a prominent location at the construction project site or along a major thoroughfare within the community as directed by the owner. A photo of this signage must be submitted to TDA prior to the release of construction funds.

Temporary signage requirements include:

- Placement in a prominent visible public area that is not blocked or obscured,
- Constructed of durable materials,
- Minimum size of 11" x 17" with lettering no smaller than one-half inch, and
- Required text (or similar)*:

"This project is funded by the Texas Department of Agriculture with funds allocated by the U.S. Department of Housing and Urban Development through the Community Development Block Grant Program."

Permanent Project Signage

Projects Requiring Permanent Signage Permanent signage identifying the location as a TxCDBG-funded project is required for any TxCDBG-funded public buildings, park areas, or other structures open to the public. Some examples of projects requiring permanent signage include community centers, parks/recreation facilities, fire stations, and significant improvements to existing facilities. Project signage is an eligible construction cost.

Requirements of permanent signage include:

- Placement in a prominent, visible public area that is not blocked or obscured,
- Constructed of permanent materials,
- Minimum size of 12" x 18" with lettering no smaller than one-half inch, and
- Required text:

"This project is funded by the Texas Department of Agriculture with funds allocated by the U.S. Department of Housing and Urban Development through the Community Development Block Grant Program."

Preconstruction Conference Report

A704

Grant Recipient: _____

TxCDBG Contract No: _____

Date: _____

Time: _____

Location: _____

A preconstruction conference was held at the above date, time and place; a copy of the sign-in sheet for attendees is attached.

The following subjects were discussed:

This project is subject to the Davis-Bacon Act (DBA), Copeland Act, Contract Work Hours Safety Standards Act (CWHSSA), and the Fair Labor Standards Act (FLSA). DBA specifies the minimum wages to be paid the various classes of laborers and mechanics employed on the project. The Copeland Act prohibits kickbacks being paid by the employee to the employer and sets the requirement for submission of payrolls on a weekly basis. CWHSSA sets a uniform standard of a 40-hour work week with time and a half the basic rate of pay for all work in excess of 40 hours. FLSA sets out the requirement for payment of minimum wages, maximum hours, overtime pay, child labor standards and prohibits wage discrimination on the basis of sex.

The requirements for compliance with these acts include:

- ☐ The suggested payroll form is the WH-347. Any other payroll used must contain the same information and be accompanied by a WH-348, Statement of Compliance. Payrolls must contain an original signature by the owner, partner, officer or individual authorized in writing by one of the above.
- ☐ Payrolls must be original and must be submitted weekly within 7 days following the end of the work week to the labor standards officer. A pay period is seven consecutive days.
- ☐ Payrolls should be numbered consecutively, with the first one being marked "initial" and the last being marked "final".
- ☐ All persons working on the job site must be shown on the payroll. The address and identification number (ex. last four digits of social security number) of the worker must be shown on the first payroll on which that individual appears.
- ☐ Payment of overtime at 1.5 times the regular rate of pay must be made for all hours in excess of 40 hours in a 7 day work week.
- ☐ The rate of pay must be at least equal to that in the wage decision that is contained in the contract documents. The decision that is applicable to this project is.
- ☐ Only deductions that are required by law, or voluntarily authorized by the workers in accordance with Copeland Act, may be made from paychecks of the workers. Authorization by the employee for all deductions not required by law must be submitted.
- ☐ Apprentices may be employed on the project, however, they must be certified by the Bureau of Apprenticeship & Training and the ratio of apprentices to journeymen must not be exceeded. A certificate for each apprentice must be included in the local files.
- ☐ Employees must be classified in accordance with the applicable wage decision. Unless a "helper" classification is found in the decision, "helpers" may not be used on the project. Employees must be classified and paid based on the work they perform. Generally speaking, only journeymen may use the tools of a trade.
- ☐ Any classification that does not appear on the wage decision must be requested through the CDBG Labor Standards Specialist and approved by the U.S. Department of Labor prior to the use of that classification on the project.
- ☐ The wage decision, posters, and any additional classifications provided must be posted in a prominent place on the job site for the duration of the construction project.

09/01/2020

- ❑ Liquidated Damages may be assessed for failure to pay the proper overtime rate. The liquidated damages liability equals \$25 per day per worker per violation. Additionally, wage restitution must be made to any worker who is underpaid.
- ❑ Failure to comply with the labor standards requirements can result in the withholding of sufficient payments to insure the proper payment of all workers and any liquidated damages.
- ❑ The general contractor will be required to certify that all laborers and mechanics employed on the project (including those employed by subcontractors) have been paid hourly rates as prescribed by the applicable laws.
- ❑ If the owner of a company performs work on the project, the owner must list him/herself on the payroll and must show the hours worked each day and total hours for the week.
- ❑ Any person who is employed on a piece-work basis must be shown on the payroll. The hours worked each day and total hours for the week must be shown. The hourly rate of the piece worker must equal or exceed the prescribed hourly rate for the particular work classification.
- ❑ Sub-contractors must be cleared prior to the execution of the sub-contract, and any sub-contracts must include the labor standards provisions (HUD 4010) and the applicable wage rate.
- ❑ In accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, if an executed contract exceeds \$100,000, Section 3 goals and reporting apply and the Contractor must report all new employment, contracting, or training opportunities directly related to the TxCDBG-funded project to the Grant Recipient.
- ❑ Subcontracts that exceed \$100,000 must also report all new employment, contracting, or training opportunities directly related to the TxCDBG-funded project to the prime contractor to be included in the prime's report to the Grant Recipient.
- ❑ Prime and subcontractors are encouraged to hire Section 3 residents when feasible.

The person who will monitor this project for compliance with the labor requirements is: _____

Additional items addressed at the conference included: _____

Prepared by: _____

Date: _____

BABA Checklist, Instructions, Definitions, & FAQs

BABA Activities Checklist

ACTIVITY	Consultant	Engineer/ Architect	Contractor
A. Pre-Award			
While preparing the bid packet, identify bid items that will, or are likely to include BABA Applicable Materials.			
Include BABA Requirements when advertising for bids to ensure responsible bid responses.			
B. Post-Award			
At the Pre-Construction meeting, finalize list of <i>all materials</i> to be used for the project based on the bid awarded and provide to the Grant Administrator.			
Enter list of <i>all permanently installed materials</i> to be used for the project into the BABA Reporting page under the Group B Performance Report in TDA-GO.			
As materials are ordered, request a Manufacturer's Certification for all BABA-applicable materials for which a waiver is not being claimed and upload them to the correct material row on the BABA Reporting page.			
Review and update the BABA Reporting page throughout the life of the grant with each submitted Change Order or Construction MSR.			
C. Payment Requests			
Review BABA Reporting page prior to submitting each payment request and ensure the necessary Manufacturer's Certifications are uploaded. TDA will not release funds for materials that require BABA Certification unless the Certification is uploaded to the BABA Reporting page.			
D. Satisfy BABA Special Condition			
On the BABA Reporting Page, select "Print Document" in the left navigation menu. Have the AO initial and upload to the PCR (and Grant Overview page if applicable).			

BABA Instructions

Documenting Materials for BABA Compliance:

- The purpose of the BABA Reporting page in TDA-GO is to document **ALL permanently installed materials** being used in a project to ensure BABA compliance. **ALL permanently installed materials**, even materials that are not BABA Applicable, must be listed on this page so TDA can ensure all compliance requirements are met and provide appropriate technical assistance to help prevent potential findings.
- The BABA Reporting page requires each material to be listed along with each corresponding bid item #. However, this is a list of **materials**, not a list of bid items (and not all bid items may be represented).
 - Some materials (such as fasteners) may be used across multiple bid items. For ease of reporting, these materials may be listed together in one row with each associated Bid Item # noted rather than listing them separately by Related Bid Item #.
 - Some bid items (such as Curb & Gutter) may use multiple different materials (Cement Aggregate & Rebar). Each material should be listed separately (to the extent feasible).

- When submitting Group B Performance Report, the Material Cost may not yet be known. At this point, TDA will primarily be reviewing the BABA Reporting page for the Material Description, Related Bid Item #(s), and Waiver Status. If the material listed is not BABA Applicable or if a waiver will be claimed, please indicate that using the dropdown menu under Waiver Status.
- Any change to the materials being used (such as on a Change Order [CO] to add new bid items or change the quantity of existing materials, or when awarding a second Construction Contract), please answer “Yes” to the BABA question on the CO page and update the BABA Reporting page.
- TDA has provided a list of materials that may be used as guide and safe harbor for identifying materials subject to BABA. This list is published by the Texas Water Development Board and can be found [HERE](#).

Payment Request Procedures:

- Each time a Payment Request is submitted for Construction funds, the BABA Reporting page must be reviewed for accuracy and updated as necessary.
- Before Construction funds are requested for a specific bid item, the Manufacturer’s Certification for each associated material must be uploaded to the BABA Reporting page in the field for those materials. TDA will review the Certifications and, if acceptable, check the “Reviewed by TDA” box. For materials that are Not BABA Applicable or if a waiver is applied, leave that row’s upload field blank. As a note: TDA **will not** release funds for a bid item until each of the associated materials have any necessary Certifications uploaded to the BABA Reporting page.

Satisfying BABA Special Condition:

- After the final payment request for 100% of construction funds is submitted, navigate to the BABA Reporting page in TDA-GO. In the left navigation menu, scroll to the Tools section and select “Print Document”. Select “Include with Attachments” for the BABA Reporting page only. Have the Authorized Official initial the document and upload it to the Project Completion Report (PCR) in the appropriate field. If a grant includes the BABA Special Condition on the Grant Overview page, upload the same document to that field and notify the assigned TDA Grant Specialist via email.

Waiver Status Option Meanings:

OPTION	Meaning
Certification Required	This material is BABA Applicable and a Manufacturer’s Certification or other acceptable BABA documentation will be provided.
De Minimis Waiver Claimed	This material is BABA Applicable, but the cost is less than 5% of the cumulative cost of all BABA Applicable materials. No BABA documentation will be provided. *
Phased Implementation Waiver Claimed	This material is BABA Applicable, but BABA documentation is not required to be provided under the current Implementation Phase. No BABA documentation will be provided.
Not BABA Applicable	This material is Not BABA Applicable and not subject to any BABA documentation requirements. No BABA documentation will be provided.
Other Waiver Submitted for Review	This material is BABA Applicable, but the Grant Recipient will be submitting a waiver request to exempt it from BABA reporting requirements.

**HUD has waived the application of the Buy America Preference for a De Minimis portion of an infrastructure project, (a cumulative total of no more than 5% of the total cost of the iron, steel, manufactured products, and construction materials used in and incorporated into the project, up to a maximum of \$1 million). Grant Recipients are not required to submit BABA documentation for materials claimed as part of the De Minimis. Use the BABA Compliance Metrics section of the BABA Reporting page to determine if a material may be included in the De Minimis. The total % of all materials claimed as part of the De Minimis must be less than or equal to 5%. Only BABA Applicable materials are used to calculate the De Minimis.*

BABA Definitions

Materials vs Components:

- **Materials:** The term “Materials” is used by TDA to describe all articles, materials, and supplies that are used within a TxCDBG funded infrastructure project.
- **Components:** The term “Component” is defined in the Code of Federal Regulations as an “article, material, or supply, whether manufactured or unmanufactured, incorporated directly” into a “construction material”.

Iron and Steel Products:

- The term “iron and steel products” is defined in 2 CFR 184.3 as materials that consists wholly or predominantly of iron or steel, or a combination of both.
 - **Predominantly iron or steel or a combination of both** means that the cost of the iron and steel content is more than 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the mill products, castings, or forgings utilized in the manufacture of the product. *This information should be provided by the manufacturer.*

Section 70917(c) Materials:

- The term “section 70917(c) materials” is defined in 2 CFR 184.3 as cement and cementitious materials; aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Construction Materials:

- The term “construction materials” is defined in 2 CFR § 184.3 as materials that consist of only one of the items listed below. Construction Materials are broken into two separate categories based on the Phased Implementation Waiver.
 - **Specifically Listed Construction Materials** include:
 - Non-ferrous metals;
 - Lumber;
 - Composite building materials; and
 - Plastic and polymer-based pipe and tube.
 - **Not Listed Construction Materials** include:
 - Plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe or tube;
 - glass (including optic glass); and
 - drywall.
 - **As a note:** minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material.

Manufactured Products:

- The term “manufactured products” is defined in 2 CFR 184.3 as materials that have been:
 - Processed into a specific form and shape; or
 - Combined with other materials to create a product with different properties than the individual materials.
- **As a note:** If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material, then it is not a manufactured product. However, a material classified as a manufactured product may include components that are construction materials, iron or steel products, or section 70917(c) materials.

BABA FAQs

How should materials be classified for BABA reporting purposes?

- Materials should only be classified into one of the following categories to determine when BABA requirements apply:
 - BABA Applicable Materials:
 - Iron or steel products;
 - Construction materials; or
 - Manufactured products.
 - BABA-Exempt Materials:
 - Section 70917(c) materials.
- Each material should be classified in *only one* of the categories listed above. In rare cases, a material may not fall under any of the categories listed here (contact TDA's BABA Subject Matter Expert for guidance). Use the [TxCDBG BABA Material Classification Tool](#) to assist with classifying materials.
 - **The classification of a material must be made based on its status at the time it is brought to the work site.** Section 70917(c) materials that are used at the work site, such as wet concrete or hot asphalt, are not subject to BABA requirements. However, Section 70917(c) materials may be components of manufactured products if, for example, they are used to produce precast concrete products before being transported to the work site. In this case, the concrete is a *component* of a manufactured product and BABA requirements apply.

What documents will TDA accept as proof of BABA compliance?

- A copy of the product description or technical specifications provided by the manufacturer that:
 - Identifies the item purchased, and
 - Provides sufficient detail to conclude that the materials comply with BABA.
- A certificate, letter, or other documentation provided by the manufacturer that:
 - Identifies the item purchased;
 - Provides sufficient detail to conclude that the materials comply with BABA; and
 - Signed by an authorized company representative OR issued by a verified regulatory compliance office within the company.
- A signed certification from the contractor of a project certifying compliance with BABA.
- **TDA's BABA Contractor Certification (Form A402) and BABA Manufacturer Certification (Form A403) meet these requirements.**
- **TDA reserves the right to request additional documentation at any time.**

Are there any waivers available?

- There are two waivers currently in effect for HUD programs which are applicable to TxCDBG projects and one waiver which may be requested. These waivers include:
 - **Phased Implementation Waiver**
 - HUD has established a Phased Implementation Waiver which automatically applies to all CDBG Formula Grants. This waiver allows TxCDBG Grant Recipients to delay BABA reporting on categories of materials based on the schedule below:
 - **Iron and Steel Products** – BABA reporting required for all grants.
 - **Specifically Listed Construction Materials** – BABA reporting required for all grants awarded after 9/1/2024.
 - **Not Listed Construction Materials** – BABA reporting required for all grants awarded after 9/1/2025.
 - **Manufactured Products** – BABA reporting required for all grants awarded after 9/1/2025.

- The [TxCDBG BABA Material Classification Tool](#) includes these reporting dates.
- **De Minimis Waiver**
 - HUD has established a De Minimis Waiver which automatically applies to all HUD-administered infrastructure projects. TxCDBG Grant Recipients may apply this waiver to a maximum cumulative total of 5% of the total cost of BABA Applicable materials used in the project. Only BABA Applicable materials are used to calculate the De Minimis.
 - The total cost of BABA Applicable materials can be determined by adding the following together:
 - Total cost of all Iron and Steel Products
 - Total cost of all Construction Materials
 - Both Specifically Listed and Not Listed
 - Total cost of all Manufactured Products
 - Once the above amounts are combined, multiply by 0.05 to determine the maximum De Minimis amount that may be claimed. The total % of all materials claimed as part of the De Minimis must be less than or equal to 5%.
 - The BABA Compliance Metrics section on the BABA Reporting Page in TDA-GO completes all these calculations for you.
 - TxCDBG Grant Recipients are not required to submit BABA documentation for materials claimed as part of the De Minimis.
- **Project-/Product-Specific Waiver**
 - If a Grant Recipient has applied both above waivers to their project and still wishes to not provide BABA reporting for additional materials, one of the three Project-/Product-Specific Waivers may be requested by following the process outlined in the *“How to Request a Project-/Product-Specific Waiver”* section below.
 - Types of Project-/Product-Specific Waivers:
 - **Nonavailability Waiver:**
 - May be requested if the types of iron, steel, manufactured products, or construction materials required for the project are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.
 - **Unreasonable Cost Waiver:**
 - May be requested when the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.
 - **Public Interest Waiver:**
 - May be requested if the use of American made products would be inconsistent with the public interest. Grantees should explain how waiving the BABA requirement for the project or product will serve the public interest and demonstrate definite impacts on the community if specific materials are not utilized in an infrastructure project to support this waiver type.
 - **As a Note:**
 - As of January 2025, TDA has not seen any waiver applications approved for projects similar to TxCDBG funded projects. Submitting a waiver application does not guarantee approval.
 - Any project delays due to the waiver process will not be considered for proposed Grant Agreement extensions.
 - **Per HUD and OMB, project-/product-specific waivers will not be approved retroactively for materials that have already been purchased or incorporated into a project.**

How to Request a Project-/Product-Specific Waiver

Process:

- Fill out Form A400 to calculate the De Minimis limit and ensure that flexibility is fully applied to the materials used in the project that cannot be procured from domestic manufacturers.
- Determine the type of waiver to be requested.
- Complete the necessary market research to support the need for a waiver. (See next section.)
- Collect the required information to submit the waiver request to TDA. (See next section.)
- Submit to your TDA Grant Specialist a notarized letter addressed to the TxCDBG Director which includes all the required information as specified in the next section.
- TDA will review the information provided, contact the Grant Recipient if additional information is needed, and submit to HUD if deemed appropriate.
- HUD will review the waiver application and contact TDA if additional information is needed to validate the need for a waiver.
- If an application is approved by HUD, the proposed waiver will be posted in the Federal Register for a minimum 15-day public comment period and then submit the request to the Made In America Office (MIAO) at the Office of Management and Budget (OMB).
- The MIAO will review the proposed waiver and public comments for final approval and communicate a final decision to HUD which will communicate it to TDA who will then notify the Grant Recipient.

Required Information to Submit a Waiver:

- Per HUD's requirements, the following information is required to submit a waiver application. Please ensure all this information is included in your letter to the TxCDBG Director. If you have not included all the required information, TDA will reject your request.
 - Market research supporting the need for a waiver;
 - Market research may be completed by the contractor who is purchasing the materials to be incorporated into the project.
 - Sufficient market research should include one or more of the following:
 - Document the report showing results of supplier scouting services provided by the [NIST MEP](#), or similar supplier scouting service.
 - Document that the purchaser has made a good faith effort to contact a minimum of three (3) manufacturers or suppliers to determine if a BABA-compliant material is available in sufficient quantity and satisfactory quality.
This documentation should include the following:
 - PDF files or screenshots of Internet searches; and
 - Email communications; and
 - Documentation of phone conversations that notes the date and time of the call, the phone number, the contact person with whom the purchaser spoke, and a summary of the information received.
 - Detailed description of the project and location;
 - List of all Federal Agencies funding the project;
 - If any Federal Agencies besides HUD are co-funding the project, please include the Federal Agency's name, Office, Program, and Contact Information.
 - Total sources and amounts of funding, including federal and non-federal shares;
 - Total estimated project costs, including federal and non-federal shares;
 - A listing of the material, technical specification, and quantity;

- HUD requires the name of the iron or steel item, manufactured product, or construction material proposed to be excepted from BABA requirements, including name, cost, countries of origin, relevant [Product Service Code \(PSC\)](#), and [North American Industry Classification System \(NAICS\) code](#).
- **As a note:** if you have multiple products you would like HUD to review, a waiver application must be submitted for each product.
- Waiver type requested;
 - **Nonavailability Waiver:**
 - If applying for a Nonavailability Waiver, responses to the following are required:
 - A description of the due diligence performed by the applicant, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.
 - In the instance that the lead time to obtain a BABA compliant item is excessive, please attach documentation which indicates:
 - The sum of the project cost and product that was identified;
 - The cost differential between the BABA compliant product and the Non-BABA compliant product that increases the overall project cost to be above the threshold of 25%; and
 - Any quality or quantity issues that were interfaced in the BABA compliant process.
 - **Unreasonable Cost Waiver:**
 - If applying for an Unreasonable Cost Waiver, responses to the following are required:
 - What is the additional cost of the BABA compliant item, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin?
 - Please demonstrate how the BABA compliant item increases the total project cost by more than 25 percent.
 - Attach documentation of prices for BABA compliant and non-compliant items for the cost comparison.
 - **Public Interest Waiver:**
 - If applying for a Public Interest Waiver, responses to the following are required:
 - Explain how waiving the BABA requirement for this project or product serves the public interest.
- Provide any additional information for HUD's consideration of the requested waiver;
- Identify any anticipated impacts if no waiver is issued;
- Include the following language at the end of the waiver application letter to certify that the Grant Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor;
 - **"I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct.**
WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802)."
- Signed by the Authorized Official; and
- Notarized by a notary public.

Contractor's BABA Compliance Certification

Project Information

Grant Recipient	
Grant Number	
Project Description	

This "*Contractor's BABA Compliance Certification*" is a form that, in lieu of a Manufacturer's Certification, the Prime Contractor may use to certify that, as required by the Build America, Buy America (BABA) Act, all of the iron, steel, manufactured products, and construction materials listed in the table below and incorporated into the public infrastructure project specified above are produced in the United States, unless exempted by a HUD general waiver or a project-/product-specific waiver approved by HUD and the Made in America Office (MIAO) at the Office of Management and Budget (OMB).

For Covered Materials not otherwise exempted from BABA requirements, the undersigned certifies the following:

- All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings occurred in the United States;
- All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mine, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
- All construction materials used in the project are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

Use the table below to list all Covered Materials procured by the signatory, used in the project, and to be certified as BABA Compliant by the signatory. (If a material used in the project has been documented as BABA Compliant through another approved method, it does not need to be included on this list.)

For "Type of Material": Indicate if the material is Iron, Steel, Manufactured Product, or Construction Material.

Type of Material	Material	Cost Per Unit	Total Cost	Manufacturer

Manufacturer's BABA Compliance Certification

Purchase Information

Manufacturer	
Purchaser	
Purchase Date	

This "*Manufacturer's BABA Compliance Certification*" is a form that the Manufacturer may use to certify that, as required by the Build America, Buy America (BABA) Act, all of the iron, steel, manufactured products, and construction materials listed in the table below and purchased by the entity specified above are produced in the United States. No waivers (i.e. EPA's Minor Components Waiver) will be accepted unless explicitly approved by the U.S. Department of Housing and Urban Development. Application of non-HUD waivers may result in non-compliance with BABA according to HUD's guidance.

For Covered Materials listed in the table below, the undersigned certifies the following:

- All iron and steel products are produced in the United States.
 - This means all manufacturing processes, from the initial melting stage through the application of coatings occurred in the United States;
 - The term "iron and steel products" is defined in 2 CFR 184.3 as materials that consists wholly or predominantly of iron or steel, or a combination of both.
- All manufactured products used in the project are produced in the United States.
 - This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mine, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
 - The term "manufactured products" is defined in 2 CFR 184.3 as materials that have been:
 - Processed into a specific form and shape; or
 - Combined with other materials to create a product with different properties than the individual materials.
- All construction materials used in the project are manufactured in the United States.
 - This means that all manufacturing processes for the construction material occurred in the United States.

Use the table below to list all Covered Materials manufactured by the signatory, purchased by the entity specified above, and to be certified as BABA Compliant by the signatory.

For "Type of Material": Indicate if the material is Iron, Steel, Manufactured Product, or Construction Material.

Type of Material	Material Title/Description	Cost Per Unit	Total Cost

APPENDIX B

REQUIRED CONTRACT PROVISIONS

REQUIRED CONTRACT PROVISIONS

Table of Contents

For all contracts

1. Debarment and Suspension	Pg. 2
2. Access to Records	Pg. 2
3. Records Retention – 3 Years	Pg. 2
4. Conflict of Interest Questionnaire – Form CIQ (Texas Ethics Commission)	Pg. 2
5. Termination for Cause (>\$10K)	Pg. 3
6. Admin., Contractual, Legal Remedies (>\$50K)	Pg. 4
7. (If applicable) Option Contract - Procurement Before Application	Pg. 5
8. Byrd Anti-Lobbying (≥\$100K)	

Additional provisions for administration & engineering contracts associated with construction contracts

9. Equal Opportunity Clause Contracts > \$10K	Pg. 5
10. Section 3 Contract Provisions (administration services on all TxCDBG Agreements)	Pg. 9

Additional provisions for construction contracts

11. HUD 4010	Pg. 10
12. Davis Bacon and Copeland Anti-Kickback (>\$2K)	Pg. 10
13. Equal Opportunity Clause (>\$10K)	Pg. 11
14. Contract Work Hours and Safety Standards Act	Pg. 15
15. Section 3 Contract Provisions (All TxCDBG Agreements)	Pg. 16
16. Clean Air and Water Act (>\$150K)	Pg. 17
17. Domestic Preferences for Procurements	Pg. 17

REQUIRED CONTRACT PROVISIONS

Italics – Explanatory; not contract language

All Contracts

THRESHOLD	PROVISION	CITATION
None	(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	2 CFR 200 APPENDIX II (H)
None	The U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, and the Texas Department of Agriculture (TDA), and the City/County, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the TxCDBG award, in order to make audits, examinations, excerpts, and transcripts and to closeout the City’s/County’s TxCDBG contract with TDA.	2 CFR 200.337
None	Grantees or subgrantees must retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.	2 CFR 200.334
None	Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED. (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if: (1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and (2) the vendor: (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that: (i) a contract between the local governmental entity and vendor has been executed; or	<u>Chapter 176</u> of the Local Government Code

	(ii) the local governmental entity is considering entering into a contract with the vendor; (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that: (i) a contract between the local governmental entity and vendor has been executed; or (ii) the local governmental entity is considering entering into a contract with the vendor; or (C) has a family relationship with the local government officer. (a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is: (1) a political contribution as defined by Title 15, Election Code; or (2) food accepted as a guest. (a-2) A local government officer is not required to file a conflicts disclosure statement under Subsection (a) if the local governmental entity or vendor described by that subsection is an administrative agency created under Section 791.013, Government Code. (b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).	
>\$10,000	<i>(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.</i> <i>Use the following language for contracts > \$ 10,000:</i> <u>Termination for Cause</u> If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City/County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying	2 CFR 200 APPENDIX II(B)

	the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City/County, be turned over to the City / County and become the property of the City / County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination. Notwithstanding the above, the Contractor shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of contract by the Contractor, and the City/County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor. <u>Termination for Convenience of the City/County</u> City/County may at any time and for any reason terminate Contractor's services and work at City/County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. [Parties should include the manner by which such termination will be effected and the basis for settlement or any other terms and conditions concerning payment upon such termination.]	
>\$50,000	<i>(A) Contracts for more than \$50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.</i> <i>Use the following language for contracts > \$50,000:</i> <u>Resolution of Program Non-compliance and Disallowed Costs</u> In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good	2 CFR 200 APPENDIX II (A)

	faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. <i>[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]</i> If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.	
≥\$100,000	(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I) and 24 CFR §570.303
Optional Contract Language for Procurement before Grant Funds Awarded	Payment of the fees [described in ____ section] shall be contingent on CDBG funding. In the event that grant funds are not awarded to the City / County by TDA through the TxCDBG program, this agreement shall be terminated by the City / County.	

Additional provisions for administration & engineering contracts associated with construction contracts

Italics – Explanatory; not contract language

THRESHOLD	PROVISION	CITATION
>\$10,000	<i>2 CFR 200 Appendix II (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “<u>federally assisted construction contract</u>” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</i> <i>Therefore, include the following EO clause (not in italics) in construction contracts including construction associated administration and engineering contracts > \$10,000:</i> \$60-1.4(b) Equal opportunity clause. (b) <i>Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</i> <i>The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</i> 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, sexual orientation, gender identity, or national origin. The contractor will take affirmative action	41 CFR §60-1.4(b) And 2 CFR 200 APPENDIX II (C)

	to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided 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 considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. (3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information. (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (5) 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. (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit	
--	--	--

	access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction 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 rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and 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 such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge	
--	--	--

	of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings. (c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts. (d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate. (e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written. (f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.	
--	---	--

	[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11, 2015]	
None	<i>§75.27 Section 3 contract provision</i> <i>Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.:</i> Economic Opportunities for Section 3 Residents and Section 3 Business Concerns. (a) The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. (b) The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations. (c) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75. (d) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual. (e) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.	24 CFR §75.27

Construction Contracts

Italics – Explanatory; not contract language

THRESHOLD	PROVISION	CITATION
>\$2,000 for Davis Bacon and Copeland “Anti-Kickback” Act; >\$100,000 for Contract Work Hours and Safety Standards Act	<i>HUD 4010 Federal labor standards provisions include:</i> <i>1. Davis Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by DOL regulations (29 CFR part 5);</i> <i>2. Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3); and</i> <i>3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.)</i> <i>See HUD 4010 contract language in Appendix F. Inclusion of this language into the construction contract satisfies contract requirements of the separate acts noted.</i>	
>\$2,000 (Satisfied with inclusion of HUD 4010)	<i>Compliance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5) and with the Copeland “Anti-Kickback” Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3):</i> (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give	2 CFR 200 APPENDIX II (D)

	up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.	
>\$10,000	<i>2 CFR 200 Appendix II (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “<u>federally assisted construction contract</u>” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</i> <i>Therefore, include the following EO clause (not in italics) in construction contracts including construction associated administration and engineering contracts > \$10,000:</i> §60-1.4(b) Equal opportunity clause. <i>(b) Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</i> <i>The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</i> 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, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard	41 CFR §60-1.4(b) And 2 CFR 200 APPENDIX II (C)

	to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided 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 considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. (3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information. (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (5) 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. (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for	
--	--	--

	purposes of investigation to ascertain compliance with such rules, regulations, and orders. (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction 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 rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and 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 such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge	
--	--	--

	of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings. (c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts. (d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate. (e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written. (f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.	
--	---	--

	[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11, 2015]	
>\$100,000 (Satisfied with inclusion of HUD 4010)	(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.	2 CFR 200 APPENDIX II (E)
None	Economic Opportunities for Section 3 Residents and Section 3 Business Concerns. (a) The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. (b) The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations. (c) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75. (d) The Contractor will certify that any vacant employment positions, including training positions, that are filled	24 CFR §75.27

	(1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual. (e) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.	
>\$150,000	(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	2 CFR 200 APPENDIX II (G)
No Threshold	§ 200.322 Domestic preferences for procurements. (a) As appropriate and to the extent consistent with law and to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. (b) For purposes of this section: (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. (3) [Iron and steel products, Manufactured Products, and Construction Materials] used in this project comply with the Build America, Buy America Act (BABA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. 177-58.	2 CFR §200.322

Wage Rate Issuance Notice

A702

The Davis-Bacon Act requires a valid Wage Decision be included in the bid package and construction contract specifications before bids are opened and be in effect on the date of the construction contract award. Obtain the most current Davis-Bacon wage decisions at www.wdol.gov.

TxCDBG Contract:Grant Recipient Name: **City of Carl's Corner**TxCDBG Contract #: **CDV23-0466**

LSO Name: Fe Vann

Detailed Description of
Bid Activity:

This project is a construction of additional storage facility that includes a 100,000-gallon water ground storage tank, booster pumps, water plant piping and valves, electrical and controls, pump building and all associated appurtenances.

Date LSO Issued Wage Rates: 2/11/2026

Estimated Bid Opening Date: 3/17/2026

I have determined that the following General Wage Decision to be applicable for this construction work:

Wage Decision Number: TX20260082 Published: 01/02/2026Type of Work (check one): ☒ Heavy ☐ Highway ☐ Building ☐ Residential**ISSUED BY:**Name: Fe Vann Date: 2/11/26Address: 402 E. Shepherd Ave. City: LufkinState: Texas Zip: 75901 Phone No: (936) 634-2550 ex.102

*****Attach wage decision to this form and retain copy in local files.
Do not send a copy of this form to TDA*****

"General Decision Number: TX20260082 01/02/2026

Superseded General Decision Number: TX20250082

State: Texas

Construction Type: Heavy

Counties: Hamilton, Harrison, Henderson, Hill and Lamar
Counties in Texas.

HEAVY CONSTRUCTION PROJECTS

Modification Number Publication Date
0 01/02/2026

SUTX2009-131 04/21/2009

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 13.00	0.00
LABORER: Common or General.....	\$ 8.61	0.00
LABORER: Pipelayer.....	\$ 9.94	0.00
OPERATOR: Backhoe/Trackhoe.....	\$ 11.75	0.00
OPERATOR: Bulldozer.....	\$ 14.25	0.00
OPERATOR: Loader (Front End)....	\$ 11.52	0.00
TRUCK DRIVER.....	\$ 10.80	0.26

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====

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 <https://www.dol.gov/agencies/whd/government-contracts>.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive

Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least \$13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 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) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations.

Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

=====

END OF GENERAL DECISION

"

"General Decision Number: TX20260082 01/02/2026

Superseded General Decision Number: TX20250082

State: Texas

Construction Type: Heavy

Counties: Hamilton, Harrison, Henderson, Hill and Lamar
Counties in Texas.

HEAVY CONSTRUCTION PROJECTS

Modification Number Publication Date
0 01/02/2026

SUTX2009-131 04/21/2009

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 13.00	0.00
LABORER: Common or General.....	\$ 8.61	0.00
LABORER: Pipelayer.....	\$ 9.94	0.00
OPERATOR: Backhoe/Trackhoe.....	\$ 11.75	0.00
OPERATOR: Bulldozer.....	\$ 14.25	0.00
OPERATOR: Loader (Front End)....	\$ 11.52	0.00
TRUCK DRIVER.....	\$ 10.80	0.26

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====

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 <https://www.dol.gov/agencies/whd/government-contracts>.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive

Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least \$13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 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) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations.

Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

=====

END OF GENERAL DECISION

"

**PART E – CONSTRUCTION PLANS
(bound separately)**

**PART E – CONSTRUCTION PLANS
(bound separately)**