

# SPECIFICATIONS AND CONTRACT DOCUMENTS



MIDWEST CITY, OKLAHOMA

SERVICE LINE CONNECTIONS PROJECT

DWSRF P40-1020806-01  
PWSID OK1020806

Prepared For:

MIDWEST CITY MUNICIPAL AUTHORITY

NOVEMBER 21, 2024



000001 – CERTIFICATIONS

**SERVICE LINE CONNECTIONS PROJECT  
GARVER PROJECT NO. 17078430**

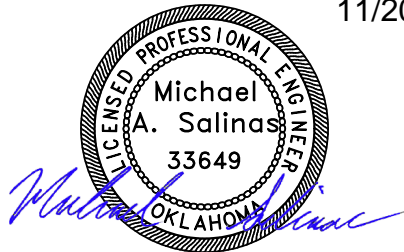
I hereby certify that the applicable portions of this project plans and specifications were prepared by me or under my direct supervision and that I am a duly Licensed Engineer under the laws of the State of Oklahoma.

**SEAL AND SIGNATURE**

**APPLICABLE DIVISION OR  
PROJECT RESPONSIBILITY**

Michael A. Salinas, P.E.

11/20/2024



OK COA #4193  
EXPIRES 06/30/2026  
Digitally Signed:

Contract Documents  
Technical Specifications

**GARVER, LLC CERTIFICATE OF AUTHORIZATION:**

**OKLAHOMA:**

**OK SURVEYING AND ENGINEERING COA NO. CA 4193**

Expiration Date: 06/30/2026

**SPECIFICATIONS, SPECIAL PROVISIONS AND CONTRACT DOCUMENTS**

**THE MIDWEST CITY MUNICIPAL AUTHORITY**

**SERVICE LINE CONNECTIONS PROJECT**

**REQUEST FOR BIDS**



**Matt Dukes, Mayor, Trust/Authority Chair**

**City Council Members – Trust/Authority Members**

**Ward I – Susan Eads**

**Ward IV– Marc Thompson**

**Ward II – Pat Byrne**

**Ward V– Sara Bana**

**Ward III – Rita Maxwell**

**Ward VI– Rick Favors**

**Tim Lyon  
City Manager/General Manager**

**Paul Streets  
Public Works Director**

**Sara Hancock  
City Clerk/Secretary**

**Don Maisch  
City Attorney**

**November 2024**

**Prepared by:  
Midwest City Public Works  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110**

CONTRACT DOCUMENTS AND  
TECHNICAL SPECIFICATIONS  
FOR CONSTRUCTION OF

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF # P40-1020806-01**

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## NOTICE TO BIDDERS

Notice is given that the Midwest City Municipal Authority (Authority) will receive sealed bids in the office of the Secretary, Midwest City Municipal Complex, 100 N. Midwest Boulevard, Midwest City, Oklahoma, until 2:00 p.m., on **December 17, 2024**, for:

### SERVICE LINE CONNECTIONS PROJECT DWSRF PROJECT NO.: P40-1020806-01

Any bids received more than ninety-six (96) hours, excluding Saturdays, Sundays, and holidays, before the time set for opening of bids, as well as bids received after 2:00 p.m. on the above date will be returned unopened. Bids shall be made in accordance with the bid documents, all of which are on file and available for public examination in the office of the Secretary in the Midwest City Municipal Complex. Complete sets of bid documents may be online via the city website: <https://www.midwestcityok.org/rfps>.

Bids filed with the Secretary shall be opened publicly and read aloud in the City Council Chambers at the time stated above or later. All bids shall be considered by the Chairman and Trustees of the Municipal Authority prior to the contract being awarded. The Authority shall consider awarding the bid at or after 6:00 pm on **January 28, 2025**, to the lowest and best bidder meeting specifications. The Authority may lay the same over to a subsequent meeting for comparison and computation.

**The bidder shall use the City of Midwest City bid documents only** and all forms must be signed and notarized/attested. The bidder shall file his/her bid in a sealed envelope. Each envelope shall bear a legible notation thereon that it is a bid upon the item proposed. The bid shall be filed with the Secretary in the City Clerk's office. All bids shall be typewritten or in ink.

**The following documents comprise the bid package. Incomplete bid packages will be rejected.**

- 1. Bid**
- 2. Bid Bond**
- 3. Statement of Bidder's Qualifications (SBQ)**
- 4. Business Relationships Affidavit (BRA)**
- 5. Bid Affidavit (BA)**
- 6. Noncollusion Affidavit (NA)**
- 7. Addendum Acknowledgement(s)**
- 8. Contractor Certification**

The specifications are complete as written. No oral representations made by any agent or employee of the City or its affiliate agencies shall be of any force or effect unless reduced to writing and submitted to all prospective bidders at least 24 hours in advance of the bid opening.

Any protest of the award of this proposed contract shall be in writing, shall specify the grounds for the protest in specific terms and shall be received by the Secretary within three (3) business days after the award of the contract by the governing body. The governing body reserves the right to review all bids and make the award to the lowest and best bidder. All other provisions of the specifications shall also apply.

Each bidder must fully comply with the requirements, terms and conditions of the Oklahoma Department of Environmental Quality (DEQ), Small, Minority, Women's Businesses Requirements including affirmative steps to contract with small, minority and women's businesses during the performance of this contract. The bidder commits itself to the affirmative steps to contract with small, minority and women's businesses contained herein and all other requirements, terms and conditions of these bid conditions by submitting a properly signed bid. Requirements are contained in Oklahoma Department of Environmental Quality Guidance and Procedures, DW-700.

Each bidder must accompany his bid with a certified or Cashier's Check from a solvent bank located in Oklahoma or a Bid Bond, in the amount of five (5) percent of the amount bid, as a guarantee of his ability to perform the contract bid upon. Performance, Maintenance, and Statutory Payment Bonds in the amount of 100% of the contract price with a Corporate Surety licensed in Oklahoma and approved by the Owner and Engineer, will be required for the faithful performance of the contract. A Maintenance Bond guaranteeing the repair of all damage due to improper materials or workmanship for a period of one (1) year, after the acceptance of the work by the Owner, will be required.


Equal Opportunity in Employment: All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age or handicap. Bidders on this work will be required to comply with the President's Executive Order No. 11246, as amended. The requirements for bidders and contractors under this order are explained in the specifications.

Davis Bacon Act wage rules shall apply. All laborers and mechanics employed by contractors and sub-contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of Title 40, United States Code. The Department of Labor provides all pertinent information related to compliance with labor standards, including prevailing wage rates and instructions for reporting. For more information please refer to <http://www.beta.SAM.gov>

American Iron and Steel provisions also apply to projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the "Consolidated Appropriations Act, 2014". Sec. 436(a)(1) of the act states that "None of the funds made available by a State Water Pollution Control Revolving Fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C 1381 et seq.) or made available by a Drinking Water Treatment Revolving Loan Fund as authorized by Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

The bidder must attend a **mandatory pre-bid conference and site visit at 10 AM on December 10, 2024, at the Water Treatment Plant, 10701 Water Plant Road, Midwest City, OK 73110**. Bidders wishing to attend the pre-bid conference or in need of additional information should contact the City of Midwest City, Public Works Department, **Carrie Evenson, Assistant Public Works Director, 8730 SE 15<sup>th</sup>, Midwest City, Oklahoma 73110, (405) 739-1062, [cevenson@midwestcityok.org](mailto:cevenson@midwestcityok.org)**.

The Chairman and Trustees of the Midwest City Municipal Authority reserve the right to reject any or all bids.

  
\_\_\_\_\_  
Sara Hancock, Secretary  
Midwest City Municipal Authority

## GENERAL INFORMATION FOR BIDDERS

The Midwest City Municipal Authority (Authority) requires the execution and submittal of specific bid documents with each bid for a city, authority or grants project. The Authority may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within ninety (90) days after the actual date of the opening thereof. Conditional bids will not be accepted. The following sections briefly outline the Authority's project bidding practices and procedures.

### BID PACKAGES

Bid packages containing the required bidding documents are available for purchase at the mandatory Prebid meeting. Each required bid document must be typewritten, submitted with the bid and must be signed in ink by the person with the authority to so execute the document and must be properly attested to or witnessed. The documents required vary with the type and nature of the work and the required bid documents are always listed on the Advertisement for Bids provided at the beginning of every specification book. The bid documents required for most projects are as follows:

- a. Bid bond **or** cashier's check in the amount of five (5) percent of the total bid
- b. Bid
- c. Statement of Bidder's Qualifications
- d. Business Relationships Affidavit
- e. Bid Affidavit
- f. Noncollusion Affidavit
- g. Addendum Acknowledgment(s)
- h. Contractor Certification
- i. References of the bidder
- j. Claim or Invoice Affidavit (DW-415)
- k. Bidder's Statement About Equal Opportunity Clause (DW-211)
- l. Bidder's Certification of Non-Segregated Facilities (DW-212)
- m. American Iron & Steel Certificate (DW-501)

The following is a brief synopsis of the bid documents and is provided to assist you in completing the required forms.

Description of Work: Service connection transition from the Starview Public Water Supply distribution system to the Midwest City Municipal Authority distribution system.

- a. Bid Bond.

A Midwest City standard bid bond form **or** surety bid bond form **or** cashier's check in the amount of five (5) percent of the **total bid** is the required bid security in accordance with the provisions of the Public Competitive Bidding Act of 1974, as amended (61 Okla. Stat. 1991, § 107). A copy of the Authority standard bid bond form is provided as a part of the bid package and the form may be used in lieu of a bid bond provided by a surety company. The total bid amount that the bond or cashier's check is written for is the largest combination of the base bid plus the alternate bids. Such cash, checks, or bid bonds will

be returned promptly after the Authority and the accepted bidder have executed the contract, or, if no award has been made within 90 days after the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

The bid security is a pledge that the bidder will enter into a contract with the Authority on the terms stated in the bid and will furnish bonds covering the faithful performance of the contract and payment of all obligations. Should the bidder refuse to enter into such contract or fail to furnish the required bonds, insurance certificates and other required documents, the bid security shall be forfeited to the Authority as liquidated damages.

The Authority bid bond form requires execution by a corporate officer representing the company submitting the bid and the bonding company. The surety company executing the bid bond must be authorized to transact business in the state of Oklahoma.

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within ten (10) days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

The Authority has the right to and does retain the bid securities of all bidders until either (a) the contract, bonds, and other required documents have been executed or submitted by the successful bidder or (b) the specified time to award bids has elapsed so that bids may be withdrawn in accordance with State law or (c) all bids have been rejected or (d) a bidder has been determined to be the successful bidder.

b. Bid

The bid is a complete and properly signed proposal, to do the work for the sums specified, submitted in accordance with the bid package documents and the contract documents. The "base bid" is the sum stated in the bid for which the bidder offers to perform the work described in the bid package documents as the base to which work may be added or from which work may be deleted for the sums stated in the alternate bid(s).

An "alternate bid (or alternate)" is an amount stated in the bid to be added to or deducted from the amount of the base bid if the corresponding change in the work, as described in the bid package documents, is accepted.

A "unit price" is an amount stated in the bid as a price per unit of measurement for materials, equipment or services, or a portion of the work as described in the bidding documents.

Bids must be submitted on the bid forms provided in the bid package or on photocopies of those forms. Bid forms are unique to each project and therefore forms other than those provided cannot and will not be accepted.

All blanks for unit prices with extensions must be completed and the bid must be totaled. The bid form must be executed by a corporate officer representing the company submitting the bid and the form must be attested to by another corporate representative or otherwise duly notarized. All blanks on the bid form must be filled in by typewriter or legibly printed in ink. Where indicated on the bid form, amounts shall be expressed in both words and



figures and, in case of any discrepancy between the two, the amount written in words shall govern.

Unless otherwise provided for when unit prices are bid, partial payments and final claims will be based on actual quantities used. Any substantial change(s) in quantities required to complete the work requires a contract amendment which will be based on the unit prices bid.

Erasures and/or corrections must be initialed by the signer of the bid. A bid with erasures and/or corrections that are not initialed shall be considered to be invalid and incomplete.

A "tied bid" would be if two or more sections of the bid were tied together. For example, if a contractor's base bid is for both section A and section B of a bid, then the bid would be considered "tied." If a contractor bids separately – a base bid for section A and a separate base bid for section B, the bids would not be considered tied.

c. Statement of Bidder's Qualifications

The statement of bidder's qualifications is a standard form that provides the Authority with background information on the bidder. It is used solely as a matter of information to evaluate a prospective bidder's capacity to execute the contract requirements and to check references. Midwest City does not have a pre-qualification requirement or a contractor licensing requirement; therefore this document is required.

The statement of bidder's qualifications form requires execution by a corporate officer representing the company submitting the bid and must be duly notarized.

d. Business Relationships Affidavit.

e. Bid Affidavit.

f. Noncollusion Affidavit.

The affidavit forms require execution by a corporate officer representing the company submitting the bid and must be duly notarized.

g. Addendum Acknowledgment(s)

Addenda are written or graphic instruments issued prior to the bid date which modify or interpret the bidding documents by additions, deletions, clarifications, or corrections.

The bidding documents represent all the information the Authority will provide. Interpretations and corrections of and/or changes to the bidding documents will be made only by addendum. Interpretations and/or changes made in any other manner will not be binding upon the Authority and bidders shall not rely upon them.

Addenda will be posted to the City website.

h. Contractor Certification

The contractor certification is a standard form that states that the bidder's employees working on the project are in this country legally. State law requires all government agencies to certify that all construction workers hold the necessary legal documents to be in the United States.

The contractor certification form requires execution by a corporate officer representing the company submitting the bid.

## **PREBID MEETING**

The **mandatory** prebid meeting notice is included in the published **Advertisement for Bids**, which is also provided at the beginning of every specification book. The notice specifies the date, time, and place for the meeting and the bidder must be **represented** at the meeting in order to be qualified to submit a bid for the project. The meeting is open to all prospective bidders and other interested parties. The consulting architect or consulting engineer and the city engineer or their designees will be present. The purpose of the meeting is to discuss the plans and specifications.

In compliance with the provisions of the Americans with Disabilities Act, a sign language interpreter or any other reasonable accommodation to attend and/or fully participate in the meeting will be provided at the prebid meeting upon twenty-four (24) hours notice to the city engineer.

A mandatory pre-bid conference and site visit will be held at 10:00 AM on December 10, 2024, at the Water Treatment Plant, 10701 Water Plant Road, Midwest City, OK 73131

## **ACCEPTANCE OF BID AND AWARD OF CONTRACT**

It is the intent of the Authority to award a contract to the lowest and best bidder meeting specifications provided that the bid submitted is in accordance with the requirements of the bidding documents and does not exceed the engineer's estimate or the funds available. The Authority has the right to waive immaterial defects or irregularities in bids received and to accept the bid which, in the Authority's judgment, is in its own best interest.

The Authority has the right to accept alternates in any order or combination, unless otherwise specifically provided in the bidding documents, and to determine the lowest and best bidder on the basis of the sum of the base bid and any alternates accepted.

The Authority reserves the right to offer the contract to the bidder deemed to be the next lowest and best bidder should the original bidder who is awarded the contract fail to execute and provide the contract and bonds or fail to provide the required certificates of insurance and/or any other required documents.

The Owner may reject all bids or may award the contract to the lowest responsive, responsible bidder. The Owner reserves the right to reject all bids, to waive formalities and to reject nonconforming, non-responsive, or conditional bids. Tied bids are non-restrictive. In order for a tied bid proposal to be accepted, it must be lower than the sum of low separate bids.

Owner shall return executed copy of the agreement within 30 days after its receipt from the Contractor.

Owner shall issue a Notice to Proceed within 45 days after the Owner executes the agreement.

Contractor shall begin construction within 30 days of the date shown on the Notice to Proceed.

### **POWER OF ATTORNEY**

Attorneys-in-fact who sign bid bonds or contract bonds must submit with each bond a certified and effectively dated copy of their power of attorney.

If the proposal is submitted by an individual, his name must be signed by him or his duly authorized agent and his post office address given. If the proposal is submitted by a firm or partnership, the name and post office address of each member of the firm must be given with the proposal signed by a duly authorized member of the firm or partnership. If the proposal is made by a company or corporation, the state in which the company or corporation is chartered and business address must be given; and the proposal must be signed by a duly authorized official or agent. Powers of Attorney, authorizing agents, or others to sign proposals must be properly certified and on file with the City Clerk.

### **TIME OF COMPLETION AND LIQUIDATED DAMAGES**

- a. It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of the contract; and it is further understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed".
- b. The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time or the completion of the same; taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- c. If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor hereby agrees, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every consecutive calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.
- d. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such even sustain; and said amount is agreed to be the amount of the damages which the Owner would sustain and shall be retained from time to time by the Owner from current periodical estimates.
- e. It is agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever. Where, under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence

of this contract.

- f. The Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner.
- g. The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to:
  - 1. To any preference, priority, or allocation order duly issued by the Owner; Provide up to 90 days of Owner-caused delays into the critical path schedule. If Owner causes delays, Contractor to provide Owner with time-delay unit cost;
  - 2. To unforeseeable cause beyond the control and without the fault or the negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather occurring prior to the original completion date. Except that in the case of severe weather the original completion date as set out in the contract shall be adjusted for severe weather occurring prior to the date originally specified in the contract as the date on which all work pursuant the terms of the contract is to be completed. The revised date, adjusted as described, will be known as the adjusted completion date. There shall be no further adjustment or adjustments to the adjusted completion date, for any reason, once the adjusted completion date has been determined. All conditions of the contract must be satisfied by the Contractor on or before the original completion date or adjusted completion date, whichever is applicable. If all contract requirements have not been met by the original completion date or adjusted completion date, if applicable, liquidated damages, regardless of weather conditions, shall apply for all subsequent days until the actual completion of the contract terms by the Contractor.
  - 3. To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (1) and (2) of this article;

Provided, that the Contractor shall, within ten (10) days from the beginning of delay as set forth in (g) above, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of delay. The Owner shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

The Contractor hereby agrees to commence work under the Contract on a date specified in a written "Notice to Proceed" of the Owner, and to complete the following project milestones within the calendar days indicated in the following table.

### Project Milestones

<b>Milestone #</b>	<b>Description</b>	<b>Calendar Days</b>
1	All Work will be substantially complete within 90 calendar days after the date when the Contract Times commence to run in accordance with the General and Supplementary Conditions.	Ninety (90)
2	All Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within <b>120</b> calendar days after the Contract Times commence to run.	One-hundred and Twenty (120)

The Contractor agrees to complete each milestone to a level of substantial completion, as defined by the General Conditions, within **the calendar days indicated in the above table**. The CONTRACTOR further agrees to pay as liquidated damages, for each milestone, the sum of **One Thousand Dollars and 00/100 (\$1,000.00) for each consecutive calendar day** thereafter as hereinafter provided in the General Conditions. Additionally, the CONTRACTOR agrees to fully complete the project, securing the ENGINEER's recommendation of final payment as described by the General Conditions, within **One-hundred and Twenty (120) consecutive calendar days**. The CONTRACTOR further agrees to pay as additional liquidated damages the sum of **Five Hundred Dollars and 00/100 (\$500.00) for each consecutive calendar day** thereafter. The liquidated damages for exceeding each milestone and final completion milestone shall be additive.

### **REJECTION OF PROPOSALS**

The City reserves the right to reject any or all proposals submitted, all of which are subject to this reservation. Proposals shall be rejected for any of the following specified reasons. (These reasons are not all inclusive):

- a. Proposals received after the time limit stated in the solicitation
- b. Proposal prices obviously unbalanced
- c. Proposals that are incomplete insofar as the Non-City of collusion Affidavit, required signatures, or containing any irregularities of substance

### **NOTICE OF AWARD**

The Owner will make every reasonable attempt to award the contract within thirty (30) days of the bid opening date, but reserves the right to examine all the bids in their entirety and to take whatever time may be required, in the best interest of the Owner, to accomplish a complete and fair bid analysis.

## **BONDS AND INSURANCE REQUIREMENTS**

As required by law, the bidder must furnish and execute in triplicate the required bonds in favor of the Authority. The Contractor shall deliver the executed contract and all required surety bonds within ten (10) days upon receipt of the contract from the Owner. With the execution and delivery of the Contract, the Contractor shall furnish and file with the City in the amounts herein required, the surety bonds listed below. The surety on such bonds shall be a duly authorized surety company satisfactory to the Owner. The bonds must be submitted on the standard bond forms provided in the bidding documents or on surety bond forms. The required bonds are:

### **a. Performance Bond**

A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the approximate total amount of the Contract, guaranteeing the full and faithful execution of the work and performance of the Contract and for the protection of the City and all property owners interested against any improper execution of the work or the use of inferior materials.

### **b. Statutory Bond**

A good and sufficient Statutory Bond in an amount equal to one hundred percent (100%) of the approximate total amount of the Contract, guaranteeing payment for all labor, materials, and equipment used in the construction of the project.

### **c. Maintenance Bond**

The maintenance bond guarantees the maintenance in good condition of the workmanship and materials for a specified period after the completion and acceptance of the project by the Authority. The maintenance period is specified in the contract documents. The bond for the maintenance period is in an amount equal to one hundred percent (100%) of the contract amount.

The typical maintenance periods for the Authority projects are as follows:

- a. 1 Year: Street resurfacing and rehabilitation projects, water and sanitary sewer projects, traffic control projects, etc.
- b. 2 Years: All buildings and park projects, all drainage improvement projects, except those portions of drainage improvement that are placed under streets which shall be bonded for five (5) years.
- c. 5 Years: All street and bridge projects including water, sanitary sewer and drainage improvements installed directly in conjunction with those projects.

## **NOTICE OF SPECIAL CONDITIONS**

Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

- a. Time for Completion and Liquidated Damages
- b. Wage rates and Insurance Requirements
- c. Inspection and Testing of Materials
- d. Stated allowances

e. SRF requirements

In the event of a conflict between the specifications and the DWSRF Supplemental Conditions (DW-185 "Pink Sheets"), the latter shall govern.

In the event of a conflict between the plans and specifications, the specifications shall govern.

**DAVIS BACON ACT**

This project is subject to the Davis Bacon Act and prevailing wage rate requirements

**SYSTEM FOR AWARD MANAGEMENT (SAM)**

System for Award Management (SAM) registration is required for all DWSRF program applicants and Awardees (Entities, prime contractors, subcontractors, vendors) in order to be awarded contracts by the DWSRF program. SAM replaces Central Contractor Registration/Federal Agency Registration, Online Representations and Certifications Application, and Excluded Parties List System. Applicants and awardees are required to complete a one-time free registration to provide basic information relevant to procurement and financial transactions. New Applicants and awardees please go to Sam.gov to complete the registration process.

Note: In order to register in SAM, a Data Universal Number System (DUNS) number will be required. DUNS number is a unique, non-indicative 9-digit identifier issued and maintained by Dun & Bradstreet (D&B) that verifies the existence of a business entity globally. D&B assigns DUNS numbers for each physical location of a business. All entities doing business with the U.S. Government can receive a DUNS number FREE of charge and, under normal circumstances, within 1-2 business days when using the D&B web form process at <http://fedgov.dnb.com/webform>

**AMERICAN IRON AND STEEL**

American Iron and Steel provisions also apply to projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the "Consolidated Appropriations Act, 2014". Sec. 436(a)(1) of the act states that "None of the funds made available by a State Water Pollution Control Revolving Fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C 1381 et seq.) or made available by a Drinking Water Treatment Revolving Loan Fund as authorized by Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States."

BID BOND

KNOW ALL PEOPLE BY THESE PRESENTS, that we, the undersigned,  
, as Principal, and \_\_\_\_\_, as Surety, are hereby  
held and firmly bound unto the Midwest City Municipal Authority in the penal sum of  
\_\_\_\_\_ \* \_\_\_\_\_ for the payment of  
which, well and truly to be made, we hereby jointly and severally bind ourselves, our successors  
and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

The condition of the above obligation is such that whereas the Principal has submitted to the  
Midwest City Municipal Authority a certain Bid, attached hereto and hereby made a part hereof to  
enter into a contract in writing, for the:

**SERVICE LINE CONNECTION PROJECT**  
**DWSRF PROJECT NO. P40-1020806-01**

NOW, THEREFORE,

(a) If said Bid shall be rejected or, in the alternate,  
(b) If said Bid shall be accepted and the Principal shall therewith and deliver a contract  
in the form of contract attached hereto (properly completed in accordance with said Bid) and shall  
furnish a bond for his faithful performance of said contract, and for the payment of all persons  
performing labor or furnishing materials in connection therewith, and shall in all other respects  
perform the contract created by the acceptance of said Bid, then this obligation shall be void,  
otherwise the same shall remain in force and effect. It is expressly understood and agreed that the  
liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount  
of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of the Surety and  
its bond shall be in no way impaired or affected by any extension of the time within which the  
Authority may accept such bid; and the Surety does hereby waive notice of any extension.



IN WITNESS WHEREOF, the Principal and the Surety have hereunder set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_  
Principal (L.S.)

\_\_\_\_\_  
Surety

By: \_\_\_\_\_



**Public Works Administration**  
**R. Paul Streets, Director**  
 rstreets@midwestcityok.org  
**Justin Madison, Line Maint. Supervisor**  
 jmadison@midwestcityok.org  
 8730 S.E. 15<sup>th</sup> Street,  
 Midwest City, Oklahoma 73110  
 O: 405-739-1060 /Fax: 405-739-1090

APPROVED METER INSTALLER

- Good Old Days Plumbing (405) 769-4394 (Set Only)
  - Plumb-Tech Inc. (405) 739-8280 (Set Only)
  - Plumbing Solutions (405) 790-0012 (Set Only)
  - PQ Plumbing (405) 923-0701 (Set Only)
  - Red Plains Plumbing (405) 769-1922 (Set Only)
  - Spor Plumbing LLC (405) 329-4533 (Set Only)
  - Standard Piping and Plumbing (405) 513-4408 (Set Only)
  - Stanley Plumbing Services (405) 702-4900 (Set Only)
- 
- A Team Plumbing (405) 420-3069 (Tap and Set)
  - Akc Plumbing (405) 735-5000 (Tap and Set)
  - Beene Services LLC. (918) 451-9081 (Tap and Set)
  - Benchmark Services, Ltd (405) 471-2503 (Tap and Set)
  - DMI Plumbing LLC (405) 323-1466 (Tap and Set)
  - Five Star Plumbing (405) 593-4398 (Tap and Set)
  - FT Construction Company Inc. (405) 702-7728 (Tap and Set)
  - Godfrey and Company (405) 412-3122 (Tap and Set)
  - Hammer Construction Inc. (405) 226-8834 (Tap and Set)
  - H & H Plumbing & Utilities Inc. (405) 288-2346 (Tap and Set)
  - Holland Backhoe Inc. (405) 919-1400 (Tap and Set)
  - Kevin's Backhoe Service (405) 740-8240 (Tap and Set)
  - Matthews Trenching Co. Inc. (405)677-4525 (Tap and Set)
  - Mid-South Contracting (405) 370-1618 (Tap and Set)
  - Nolan Family Plumbing (405) 397-8415 (Tap and Set)
  - Patriot Construction Services, Inc. (405) 481-1938 (Tap and Set)
  - R.W. Spellman Klassic Tap LLC (405) 312-9490 (Tap and Set)
  - Sell Tech Plumbing (405) 826-2365 (Tap and Set)
  - Tankco MEP (405) 255-7804 (Tap and Set)
- 
- Tapco (405) 640-6063 (Tap only)

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered. All responses must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate sheets. The Bidder may submit any additional information.

1. Name of Bidder: \_\_\_\_\_
2. Permanent main office address: \_\_\_\_\_
3. When organized: \_\_\_\_\_
4. If a corporation, where incorporated: \_\_\_\_\_
5. How many years have you been engaged in the contracting business under your present firm or trade name:  
\_\_\_\_\_
6. Contracts on hand (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion): \_\_\_\_\_
7. General character of work performed by your company: \_\_\_\_\_
8. Have you ever failed to complete any work awarded to you? \_\_\_\_\_
9. Have you ever defaulted on a contract? \_\_\_\_\_
10. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. List your major equipment available for this contract: \_\_\_\_\_  
\_\_\_\_\_
12. Experience in construction work similar in scope to this project: \_\_\_\_\_  
\_\_\_\_\_
13. Background and experience of the principal members of your organization, including officers:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Credit available: \$ \_\_\_\_\_







NONCOLLUSION AFFIDAVIT  
**THIS AFFIDAVIT MUST ACCOMPANY THE BID**

The Midwest City Municipal Authority  
Midwest City, Oklahoma

I, \_\_\_\_\_  
Owner, Partner, Officer of Firm

\_\_\_\_\_  
Company Name, City and State

being first duly sworn upon oath, state: I, the Company, its officers or employees, have not been party to any agreement or collusion among bidders, prospective bidders, architects or any other persons, or any other companies, in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding or otherwise on this project for:

**SERVICE LINE CONNECTION PROJECT**  
**DWSRF PROJECT NO. P40-1020806-01**

for the Midwest City Municipal Authority.

**Bids will be opened on December 31, 2024, at 2:00 pm.**

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature and Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**BID**

Proposal of \_\_\_\_\_  
\_\_\_\_\_, (hereinafter called BIDDER"),  
organized and existing under the laws of the State of \_\_\_\_\_  
doing business as \* \_\_\_\_\_

To the **Midwest City Municipal Authority** (hereinafter called "Authority").

In compliance with your Advertisement for Bids, BIDDER hereby proposes to perform all work for the construction of the following:

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF PROJECT NO.: P40-1020806-01**

having examined the Specifications with related documents and the site of the proposed work and being familiar with all of the conditions surrounding construction of the proposed project (including availability of material and labor), hereby proposes to furnish all labor, materials, and supplies to construct the project in accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this Proposal will be made a part.

Bidder hereby agrees to commence work under the Contract on a date specified in a written "Notice to Proceed" of the Owner, and to complete the following project milestones within the calendar days indicated in the following table.

**Project Milestones**

<b>Milestone #</b>	<b>Description</b>	<b>Calendar Days</b>
1	All Work will be substantially complete within 90 calendar days after the date when the Contract Times commence to run in accordance with the General and Supplementary Conditions.	Ninety (90)
2	All Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within <b>120</b> calendar days after the Contract Times commence to run.	One-hundred and Twenty (120)



The Contractor agrees to complete each milestone to a level of substantial completion, as defined by the General Conditions, within **the calendar days indicated in the above table.** The CONTRACTOR further agrees to pay as liquidated damages, for each milestone, the sum of **One Thousand Dollars and 00/100 (\$1,000.00) for each consecutive calendar day** thereafter as hereinafter provided in the General Conditions. Additionally, the CONTRACTOR agrees to fully complete the project, securing the ENGINEER's recommendation of final payment as described by the General Conditions, within **One-hundred and twenty (120) consecutive calendar days.** The CONTRACTOR further agrees to pay as additional liquidated damages the sum of **Five Hundred Dollars and 00/100 (\$500.00) for each consecutive calendar day** thereafter. The liquidated damages for exceeding each milestone and final completion milestone shall be additive.

BIDDER acknowledges receipt of the following ADDENDUM:

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BIDDER agrees to perform all the work described in the CONTRACT DOCUMENTS for the unit prices or lump sum as indicated on the detailed bid form. The Authority shall have the option to deduct any or all of the bid items at the unit cost or lump sum provided by the BIDDER.

BIDDER agrees to submit Midwest City standard bid bond form or surety bid bond form or cashier's check in the amount of five (5) percent of the total bid is the required bid security in accordance with the provisions of the Public Competitive Bidding Act of 1974, as amended (61 Okla. Stat. 1991, § 107) with the proposal.

BASE BID SUBTOTAL (form DBF-1) \$ \_\_\_\_\_

---

(Total dollars written)

Respectfully submitted:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
License Number (if applicable)

(SEAL - If Bid is by a Corporation)

ATTEST: \_\_\_\_\_

**DETAILED BID FORM**

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF Project No. P40-1020806-01**

Detailed bids shown below shall reflect all related project costs including, but not limited to, equipment, materials, labor, overhead and profit for installation and construction of each item per the drawings and specifications. Contractor is responsible for verifying quantities. See Appendix I to the Instructions to Bidders for directions and a sample Detailed Bid Form.

<b><u>Pay Item</u></b>	<b><u>Estimated Quantity</u></b>	<b><u>Unit</u></b>	<b><u>Item</u></b>	<b><u>Unit Price</u></b>	<b><u>Item Total</u></b>
1.	1	L.S.	Mobilization		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
2.	32	E.A.	WATER METER PURCHASE		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
3.	6	E.A.	ROAD BORES – 2-LANE ROAD		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
4.	2	E.A.	ROAD BORES – 4-LANE ROAD		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
5.	32	E.A.	METER RECONNECTION		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
6.	1	L.S.	EXISTING WATERLINE TO BE CAPPED AND PLUGGED		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					
7.	1	L.S.	DISCONNECTION OF EXISTING WELL		
				Dollars	\$ _____ \$ _____
<i>(Dollars per unit written)</i>					

**BASE BID SUBTOTAL (Sum of ITEMS Items 1-7)**

\_\_\_\_\_ Dollars \$ \_\_\_\_\_

*(Dollars per unit written)*

Bidder's Proposed Notice to Proceed Date \_\_\_\_\_  
 (Date after potential award of contract bidder proposes to commence work)

**NOTE: All items are required to be bid. Quantities listed are for evaluation purposes only, payment will be based on actual quantities installed for the project and completed per specifications.**

Amounts are to be shown in both words and figures. In case of any discrepancy, the amount shown in words will govern.

The above unit prices shall include all costs for labor, materials, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informality in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving bids.

Davis Bacon Act prevailing wage rate requirements shall apply. All laborers and mechanics employed by contractors and sub-contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of Title 40, United States Code. The Department of Labor provides all pertinent information related to compliance with labor standards, including prevailing wage rates and instructions for reporting. For more information, please refer to <http://www.SAM.gov>.

By submitting a bid/proposal under this solicitation, the Bidder understands that the bid/proposal is subjected to the Davis-Bacon Act including prevailing wage rates and the Contract Work Hours and Safety Standards Act.

**Equal Opportunity in Employment:** All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age or handicap. Bidders on this work will be required to comply with the President's Executive Order No. 11246, as amended. The requirements for bidders and contractors under this order are explained in the specifications.

Each bidder must fully comply with the requirements, terms and conditions of the Oklahoma Department of Environmental Quality (DEQ), Small, Minority, Women's Businesses Requirements including affirmative steps to contract with small, minority and women's businesses during the performance of this contract. The bidder commits itself to the affirmative steps to contract with small, minority and women's businesses contained herein and all other requirements, terms and conditions of these bid conditions by submitting a properly signed bid. Requirements are contained in Oklahoma Department of Environmental Quality Guidance and Procedures, DW-700.

American Iron and Steel provisions also apply to projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Safe Drinking Water Act, Section 1452(a)(4), requiring that all iron and steel products used for a project for the construction, alternation, maintenance or repair of a public water system are produced in the United States.

By submitting a bid/proposal under this solicitation, the Bidder certifies that all Iron and Steel used in the project are produced in the United States in accordance with the “Consolidated Appropriations Act, 2014.

By submitting a bid/proposal under this solicitation, the Bidder shall submit American Iron and Steel Certification Form DW-501 with the bid.

System for Award Management (SAM) registration is required for all DWSRF program applicants and Awardees (Entities, prime contractors, subcontractors, vendors) in order to be awarded contracts by the DWSRF program. SAM replaces Central Contractor Registration/Federal Agency Registration, Online Representations and Certifications Application, and Excluded Parties List System. Applicants and awardees are required to complete a one-time free registration to provide basic information relevant to procurement and financial transactions. New Applicants and awardees please go to Sam.gov to complete the registration process.

Note: In order to register in SAM, a Unique Entity Identification (UEI) number will be required. A UEI is a 12-character (alpha-numeric) code that uniquely identifies all entities. Any entity registering to do business with the government in terms of contracts or grants and assistance awards is required to have one. Unique Entity IDs are issued by SAM.gov and are a part of an entity's record in the Entity Information section of SAM.gov.

Upon receipt of written notice of acceptance of this bid, Bidder will execute the formal Contract attached within ten (10) days and deliver all bonds as required by the General Conditions. The bid security attached in the sum of

DOLLARS

(\$ \_\_\_\_\_) is to become the property of the Owner in the event the Contract and Bonds are not executed within the time set forth above, as liquidated damages for the delay and additional expense to the Owner caused thereby.

## Contractor Certification

Contractor certifies and warrants that it will comply with the Immigration Laws of the United States, including but not limited to 8 USC 1324(a), which makes it unlawful for an employer to hire or continue to employ an illegal or undocumented alien *knowing* the alien is or has become unauthorized with respect to such employment, or to fail to comply with the I-9 requirements. Contractor further agrees to comply with the Oklahoma Taxpayer and Citizen Protection Act of 2007. Contractor will not knowingly employ or knowingly allow any of its Subcontractors to employ any illegal or undocumented aliens to perform any work in connection with services performed for the Midwest City Municipal Authority (Authority). After July 1, 2008, Contractor and its Subcontractors will verify information on all new employees on the Status Verification System operated by the U.S. Government.

Contractor will retain and make available for inspection by the Authority, upon reasonable notice, a completed I-9 Employment Eligibility Verification Form for each person that contractor directly employs to perform services for the Authority. If Contractor, or any of its Subcontractors, receives *actual knowledge* of the unauthorized status of one of its employees engaged in providing services to the Authority, then Contractor or Subcontractor will remove that employee from the project, and shall require each Sub-contractor to act in a similar fashion with respect to such Sub-contractor's employees. Contractor agrees to have a provision in its subcontracts stating that each Sub-contractor will have the same duties and responsibilities with regard to its employees that the Contractor has certified in this paragraph.

Signed under penalty of perjury on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_,  
Contractor

By: \_\_\_\_\_  
Owner or Authorized Officer

STATUTORY BOND

KNOW ALL BY THESE PRESENTS:

That \_\_\_\_\_, as Principal,  
and \_\_\_\_\_, a corporation  
organized under the laws of the State of \_\_\_\_\_, and authorized to transact business  
in the State of Oklahoma, as Surety, are held and firmly bound unto the Midwest City Municipal Authority  
in the penal sum  
of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) in lawful money of the United States of America, for the payment of which, well  
and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees,  
successors, and assigns, jointly and severally, firmly by these presents.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

The condition of this obligation is such that:

WHEREAS, Principal entered into a written Contract with the Midwest City Municipal Authority dated  
\_\_\_\_\_, 2024, for:

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF PROJECT NO.: P40-1020806-01**

all in compliance with the plans and specifications therefor, made a part of the Contract and on file in the  
office of the Secretary, Midwest City Municipal Authority, 100 N. Midwest Boulevard, Midwest City,  
Oklahoma 73110.

NOW, THEREFORE, if Principal shall fail or neglect to pay all indebtedness incurred by said Principal  
or subcontractors of Principal who perform work in the performance of the Contract, for labor and materials  
and repairs to and parts for equipment used and consumed in the performance of the Contract within thirty  
(30) days after the same becomes due and payable, the person, firm or corporation entitled thereto may sue  
and recover on this bond the amount so due and unpaid.

It is further expressly agreed and understood by the parties to the Contract that no changes or alterations  
in the Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of  
releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized so to do, the day and year first above written.

Principal:

\_\_\_\_\_

By \_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_

Surety:

\_\_\_\_\_

By \_\_\_\_\_  
Attorney-in-Fact

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Attorney



PERFORMANCE BOND

KNOW ALL BY THESE PRESENTS:

That \_\_\_\_\_, as Principal,  
and \_\_\_\_\_, a corporation organized  
under the laws of the State of \_\_\_\_\_, and authorized to transact business in the  
State of Oklahoma, as Surety, are held and firmly bound unto the Midwest City Municipal Authority  
in the penal sum of

\_\_\_\_\_ Dollars  
(\$\_\_\_\_\_) in lawful money of the United States of America, for the payment of which,  
well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators,  
trustees, successors, and assigns, jointly and severally, firmly by these presents.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

The condition of this obligation is such that:

WHEREAS, Principal entered into a written Contract with the Authority dated  
\_\_\_\_\_, 2024, for:

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF PROJECT NO.: P40-1020806-01**

all in compliance with the plans and specifications therefor, made a part of said Contract and on file  
in the office of the Secretary, Midwest City Municipal Authority, 100 N. Midwest Boulevard,  
Midwest City, Oklahoma 73110.

NOW, THEREFORE, if Principal shall, in all particulars, well, truly, and faithfully perform  
and abide by Contract and each and every covenant, condition, and part thereof and shall fulfill all  
obligations resting upon Principal by the terms of Contract and specifications; and if Principal shall  
promptly pay, or cause to be paid, all labor, materials and/or repairs and all bills for labor performed  
on work, whether by subcontract or otherwise; and if Principal shall protect and save harmless the  
Authority from all loss, damage and expense to life or property suffered or sustained by any person,  
firm or corporation caused by said Principal or his or its agents, servants or employees in the  
construction of work, or by or in consequence of any negligence, carelessness or misconduct in  
guarding and protecting the same, or from any act or omission of said Principal or his or its agents,  
servants or employees in the construction of said work, or by or in consequence of any negligence,  
carelessness or misconduct in guarding and protecting the same, or from any act or omission of

Principal shall protect and save the Authority harmless from all suits and claims of infringement or alleged infringement or patent rights or processes, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized so to do, the day and year first above written.

Principal:

\_\_\_\_\_

By \_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_

Surety:

\_\_\_\_\_

By \_\_\_\_\_  
Attorney-in-Fact

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

City Attorney

MAINTENANCE BOND

KNOW ALL BY THESE PRESENTS:

That \_\_\_\_\_, as Principal,  
and \_\_\_\_\_, a corporation  
organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the  
State of Oklahoma, as Surety, are held and firmly bound unto the Midwest City Municipal Authority  
(Authority) in the penal sum of

\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) in lawful money of the United States of America, said sum being  
equal to one hundred percent (100%) of the contract price, for the payment of which, well and truly  
to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees,  
successors, and assigns, jointly and severally, firmly by these presents.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

The condition of this obligation is such that:

WHEREAS, Principal entered into a written Contract with the Authority dated  
\_\_\_\_\_, 2024, for:

**SERVICE LINE CONNECTIONS PROJECT**  
**DWSRF PROJECT NO.: P40-1020806-01**

all in compliance with the plans and specifications therefor, made a part of the Contract and on file  
in the office of the Secretary, Midwest City Municipal Authority, 100 N. Midwest Boulevard,  
Midwest City, Oklahoma 73110.

NOW, THEREFORE, if Principal shall pay or cause to be paid to the Authority all damage,  
loss and expense which may result by reason of defective materials and/or workmanship in  
connection with work occurring within one (1) year from and after acceptance of project by the  
Authority; and if Principal shall pay or cause to be paid all labor and materials, including the prime  
contractor and all subcontractors; and if Principal shall save and hold the Authority harmless from all  
damages, loss and expense occasioned by or resulting from any failure whatsoever of Principal, then  
this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized so to do, the day and year first above written.

Principal:

\_\_\_\_\_

By \_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_

Surety:

\_\_\_\_\_

By \_\_\_\_\_  
Attorney-in-Fact

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

City Attorney



**Disadvantaged Business Enterprise Program  
DBE Subcontractor Utilization Form**

<b>BID/PROPOSAL NO.</b>	<b>PROJECT NAME</b>
<b>NAME OF PRIME BIDDER/PROPOSER</b>	<b>E-MAIL ADDRESS</b>
<b>ADDRESS</b>	
<b>TELEPHONE NO.</b>	<b>FAX NO.</b>

<b>The following subcontractors<sup>1</sup> will be used on this project:</b>			
<b>COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS</b>	<b>TYPE OF WORK TO BE PERFORMED</b>	<b>ESTIMATED DOLLAR AMOUNT</b>	<b>CURRENTLY CERTIFIED AS AN MBE OR WBE?</b>

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

_____	_____
Signature Of Prime Contractor	Date
_____	_____
Print Name	Title

<sup>1</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance



**Disadvantaged Business Enterprise Program  
DBE Subcontractor Performance Form**

<b>NAME OF SUBCONTRACTOR<sup>1</sup></b>		<b>PROJECT NAME</b>	
<b>ADDRESS</b>		<b>BID/PROPOSAL NO.</b>	
<b>TELEPHONE NO.</b>		<b>E-MAIL ADDRESS</b>	
<b>PRIME CONTRACTOR NAME</b>			
<b>CONTRAC ITEM NO.</b>	<b>ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME</b>	<b>PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR</b>	
Currently certified as an MBE or WBE under EPA's DBE Program? _____ Yes _____ No			
_____ Signature of Prime Contractor		_____ Date	
_____ Print Name		_____ Title	
_____ Signature of Subcontractor		_____ Date	
_____ Print Name		_____ Title	

<sup>1</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise Program  
DBE Subcontractor Participation Form**

<b>NAME OF SUBCONTRACTOR:</b>	<b>PROJECT NAME</b>
<b>ADDRESS</b>	<b>CONTRACT NO.</b>
<b>TELEPHONE NO.</b>	<b>E-MAIL ADDRESS</b>
<b>PRIME CONTRACTOR NAME</b>	

Please use the space below to report any concerns regarding the above project (e.g., reason for termination by prime contractor, late payment, etc.).

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<b>CONTRACT ITEM NO.</b>	<b>ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR</b>	<b>AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR</b>

_____ Subcontractor Signature	_____ Title/Date
----------------------------------	---------------------

<sup>1</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

## Oklahoma Drinking Water State Revolving Fund Disadvantaged Business Enterprise (DBE) Program Guidance

The Oklahoma Drinking Water State Revolving Fund (DWSRF) receives federal funds from the U.S. Environmental Protection Agency (EPA) to provide low interest rate loans to finance water infrastructure projects. As a condition of federal grant awards, EPA regulations require that loan recipients and sub-recipients (i.e., prime contractors and subcontractors) make a good-faith effort to award a fair share of work to DBE's who are minority business enterprises (MBE's) and women's business enterprises (WBE's). DBE requirements can be found in 40 CFR Part 33.

To ensure compliance with EPA's DBE requirements, both **Project Owners (Loan Recipients)** and **Prime Contractors must** undertake the good faith efforts to provide opportunities for DBE companies to participate in procurements. EPA regulations require evidence of the demonstration of the six good faith efforts in trying to achieve the DBE participation goals. DWSRF negotiated DBE participation goals with EPA of 11.25% for MBEs and 7.41% for WBEs. The DBE goals are not a quota.

### **Good Faith Efforts – 40 CFR 33.301**

The following good faith efforts which apply to the procurement categories involving EPA financial assistance funds can be found in **40 CFR, Subpart C, Part 33** of EPA's Disadvantaged Business Enterprise Program Rule.

1. Ensure DBE's are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
2. Search DBE lists for potential subcontracts/suppliers.
  - a. The DBE lists are updated frequently, so search on-line for the most current list.
  - b. Contact at least one DBE for each subcontract/supplier needed.
3. Provide notice to DBE organizations of opportunities to bid.
4. Arrange time frames for contracts and establish delivery schedules in a way that encourages and facilitates participation by DBEs in the competitive process.
5. Divide total requirements into smaller tasks or quantities and using DBE prime contractors and subcontractors when feasible to permit maximum DBE participation.
6. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
7. Use the services and assistance of the Small Business Administration (SBA), Department of Transportation (DOT) and Minority Business Development Agency of the U. S. Department of Commerce.
8. If the Prime Contractor awards subcontracts, require the subcontractor to take these same Good Faith Efforts.

### **TO PROVIDE PROCUREMENT OPPORTUNITIES TO DBE FIRMS, THE PROJECT OWNER SHOULD:**

- Conduct pre-bid meetings to inform potential bidders/contractors about DBE requirements and provide guidance in undertaking the required good faith efforts found at 40 CFR 33.301.
- When appropriate invite DBE companies to meetings, conferences, etc., to inform them of procurement opportunities.



- Use databases of certified DBEs from the U.S. Small Business Administration (SBA), Oklahoma Department of Transportation (ODOT), etc, to solicit DBE companies as prime contractors whenever they are potential.
- The SBA maintains a list that can be found at the following link [http://dsbs.sba.gov/dsbs/search/dsp\\_dsbs.cfm](http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm)
- The ODOT maintains a database which can be found at the following link <https://okdot.gob2g.com/?TN=okdot>
- Cherokee Nation Tribal Employment Rights Office (TERO) maintains a list which can be found at <http://www.cherokeetero.com/>

## Procurement, Recordkeeping and Reporting

### I. PROJECT OWNERS ARE REQUIRED TO:

- A. Ensure all prime contractors apply the Good Faith Efforts.
- B. Project Owners must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the project owner/recipient.  
40 CFR 33.302(a)
- C. Maintain copies of all DBE documentation.

### 2. PRIME CONTRACTORS ARE REQUIRED TO:

- A. Notify the loan recipient in writing prior to any termination of a DBE subcontractor by the prime contractor. 40 CFR 33.302(b)
- B. Follow the six good faith efforts if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. 40 CFR 33.302(c)
- C. Follow the six good faith efforts for all subcontract and/or supplier procurements even if the prime contractor has achieved its fair share objectives. 40 CFR 33.302(d)
- D. Provide documentation of solicitation of DBEs within three days of being declared the apparent low bidder:

3. **All DWSRF loan recipients are required to create and maintain a bidders list in accordance with 40 CFR, Subpart E, Part 33** of EPA's Disadvantaged Business Enterprise Program rule, (40 CFR 33.501(b)). The bidder's list must include **all** companies that bid/quote on prime contracts and/or bid/quote on subcontracts and supplies for DWSRF funded projects (including DBEs and non-DBEs). The bidder's list must include the following prime and subcontractor information (40 CFR 33.501): entity's name and the name of the person contacted; entity's mailing address, telephone number, and e-mail address; the task or material on which the entity bid/quoted, the amount and date of bid/quote; and the entity's status as an MBE/WBE or non-MBE/WBE.

Please submit all information to:

**Kristi Roy, DBE Coordinator, DWSRF, P.O. Box 1677, Oklahoma City, OK 73101**  
**Phone: 405 702-8144; FAX: 405 702-8101; Email: Kristi.Roy@DEQ.OK.GOV**

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Supplemental Conditions

for

Projects funded from the

Drinking Water State Revolving Loan Fund

REPRODUCTION OF THIS GUIDANCE SHOULD  
BE ON COLORED PAPER, PREFERABLY PINK

RULES AND REGULATIONS  
TITLE 41 - PUBLIC CONTRACT AND PROPERTY MANAGEMENT  
CHAPTER 60 - OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS,  
EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR  
COMPLIANCE RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY

**60-1.4 Equal opportunity clause.**

(b) Federally assisted construction contracts.

(1) 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:

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:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, 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, or national origin.

(3) 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.

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

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by 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.

(6) 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.

- (7) 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]

**60-4.2 Solicitations.**

- (a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in § 60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this Part 60-4.
- (b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.
- (c) Contracting officers, applicants and nonconstruction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.
- (d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part (see 41 CFR 60-4.2(a)):

**Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246)**

1. The Offeror's or Bidder's attention is called to

the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

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

Goals for minority participation in each trade	Goals for female participation in each trade
11.25%	7.41%

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

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

- 2. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the



subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980]

#### **60-4.3 Equal opportunity clauses.**

- (a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive order.

#### **Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)**

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security

number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

- d. "Minority" includes:
  - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in

which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S.

Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional

- actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
  - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and



- encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - m. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - n. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - o. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
  10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
  11. The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract."
  12. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
  13. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to

carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

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

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

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

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for

Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

#### **DAVIS BACON ACT REQUIREMENTS (29 CFR 5.5)**

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 assistance.

Regarding the following text: a **subrecipient** typically refers to a municipal or other local governmental entity that manages funds and are eligible to receive subgrant or loans from the **recipient**, which refers to the Oklahoma Drinking Water State Revolving Fund (DWSRF).

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements. DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State [DWSRF] before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor [www.SAM.gov](http://www.SAM.gov) weekly to ensure that the wage determination contained in the solicitation remains current. The

subrecipients shall amend the solicitation if the Department of Labor issues a modification more than 10 days prior to the closing date (i.e., bid opening) for the solicitation. If the Department of Labor modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient [DWSRF] that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes the Department of Labor makes to the wage determination contained in the solicitation shall be effective unless the State recipient [DWSRF], at the request of the subrecipient, obtains an extension of the 90 day period from the Department of Labor pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor [www.SAM.gov](http://www.SAM.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate Department of Labor wage determination from [www.SAM.gov](http://www.SAM.gov) into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if the Department of Labor determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate the Department of Labor's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated

for any increases in wage resulting from the use of the Department of Labor's revised wage determination.

### 3. Contracts and Subcontract provisions.

(a) Any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1 or the FY 2013 Full-Year Continuing Resolution, shall include the following clauses [(1) – (10)]:

#### (1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the

employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.SAM.gov](http://www.SAM.gov).

(ii)(A) The subrecipient, on behalf of EPA, shall 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 shall be classified in conformance with the wage determination. The State award official [DWSRF] shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient to the State award official [DWSRF]. The State award official [DWSRF] will transmit the request to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official [DWSRF] or will notify the State award official [DWSRF] within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the recipient [DWSRF] do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the State award official [DWSRF] shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official [DWSRF], to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer [DWSRF] or will notify the contracting officer [DWSRF] within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements,



which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

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

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the

sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient [DWSRF] or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient for transmission to the State [DWSRF] or EPA if requested by EPA, the State [DWSRF], the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

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

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate,

either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

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

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

#### **(4) Apprentices and trainees.**

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program,

but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site

shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

**(5) Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**(6) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate [instructions require], and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**(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 Subrecipient(s), State, EPA, 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 he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**4. Contract Provision for Contracts in Excess of \$100,000**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full 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 shall be inserted in addition to the clauses required by Item 3, above, or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which 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 paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor

shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the DWSRF and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## 5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the subrecipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Subrecipients must conduct more frequent



interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date [of] the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractor's and subcontractor's use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S. Department of Labor or a state, as appropriate, and the contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <https://www.dol.gov/agencies/whd/contact/local-offices>

#### AMERICAN IRON AND STEEL

(a) Definitions. (1) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other

municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(2) Steel means an alloy that includes at least 50 percent iron, between 0.02 of 2 percent carbon, and may include other elements.

(b) Domestic Preference.

(1) This award term and condition implements the Safe Drinking Water Act, Section 1452(a)(4), by requiring that all iron and steel products used for a project for the construction, alteration, maintenance or repair of a public water system are produced in the United States except as provided in paragraph (b)(2) of this section and condition.

(2) This requirement shall not apply in any case or category of cases in which the Administrator of the environment Protection Agency finds that:

(i) Applying the requirement would be inconsistent with the public interest;

(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) Request for a Waiver under (b)(2) of this section

(1) Any recipient request to use foreign iron or steel products in accordance with paragraph (b)(2) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron or steel products cited in accordance with paragraph (b)(2) of this section.

(2) If the Administrator receives a request for a waiver under this section, the waiver request shall be made available to the public for at least 15 days prior to making a finding based on the request.

(3) Unless the Administrator issues a waiver of this term, use of foreign iron and steel products is noncompliant with the Safe Drinking Water Act, section 1452(a)(4).

(d) This term and condition shall be applied in a manner consistent with United States obligations under international agreements.

### **BUILD AMERICA, BUY AMERICA**

Build America, Buy America (BABA) Act requirements may apply. The BABA Act requires none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the **iron, steel, manufactured products, and construction materials** used in the project are produced in the United States. The BABA Act requirement does not supersede the AIS requirement, and both provisions still apply and work in conjunction.

### **OTHER SUPPLEMENTAL CONDITIONS**

#### **Small, Minority and Women's Business**

40 CFR 31.36(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. The SRF loan recipient and subcontractors will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative Steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2)(i) through (v) of this section.

#### **Completion Date**

If not stated elsewhere in these specifications, the contractor shall complete work under this contract within \_\_\_\_\_ working days or \_\_\_\_\_ calendar days. Time for completion shall begin on the 10th day after issuance of the work order, which shall consist of a written request by the engineer for the contractor to proceed with the construction of the project.

#### **Contractor's Liability and Builders All Risk Insurance**

The contractor shall furnish the following insurance when the contract is awarded:

(A) Workmen's Compensation: The contractor shall carry on his work in accordance with the requirements of the Workmen's Compensation Law of the State of Oklahoma, and shall not reject the provisions thereof during the life of the contract. A certificate of coverage must be returned with the contract.

(B) Public Liability and Property Damage: He shall also protect himself by liability insurance against any and all claims for damages to persons or property which may arise out of operations under this contract, whether such operations be by himself or a subcontractor or by anyone directly employed by either of them. Certificates of such insurance shall be file with the Owner and shall be subject to its approval as to adequacy of protection. The public liability insurance shall have limits of not less than \$100,000/\$300,000 and Property Damage insurance of not less than \$50,000/\$100,000 shall be carried by the contractor during the life of the contract. A certificate of such coverage must be returned with the contract.

(C) Builder's Risk: Provide Builders Risk Insurance only if called for in other sections of the specifications.

#### **Bonds**

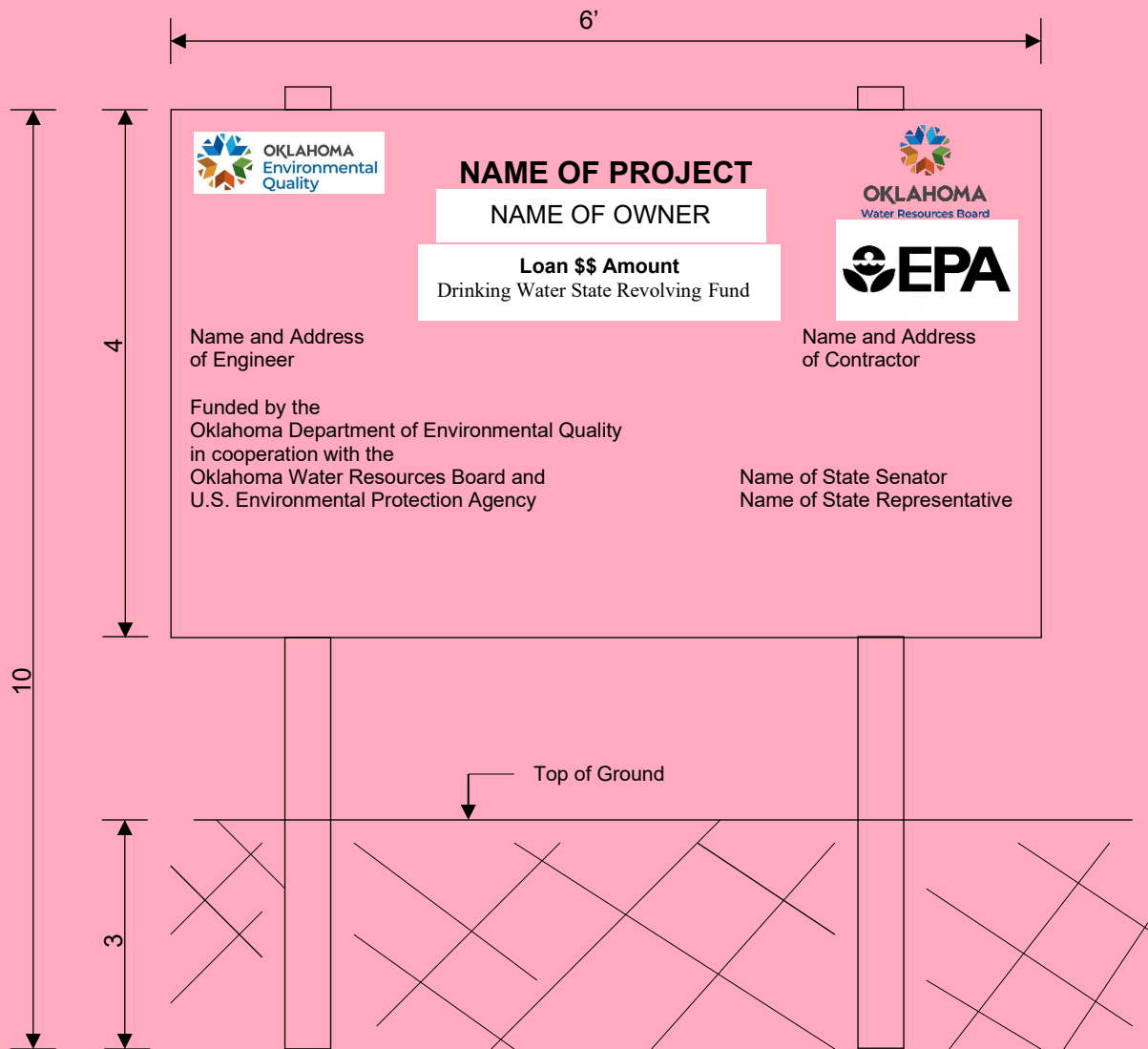
All bonds are for the full value of the contract and must be issued by a surety company authorized by the Oklahoma Insurance Commission to do business in the State of Oklahoma. They will be required after the award of the contact.

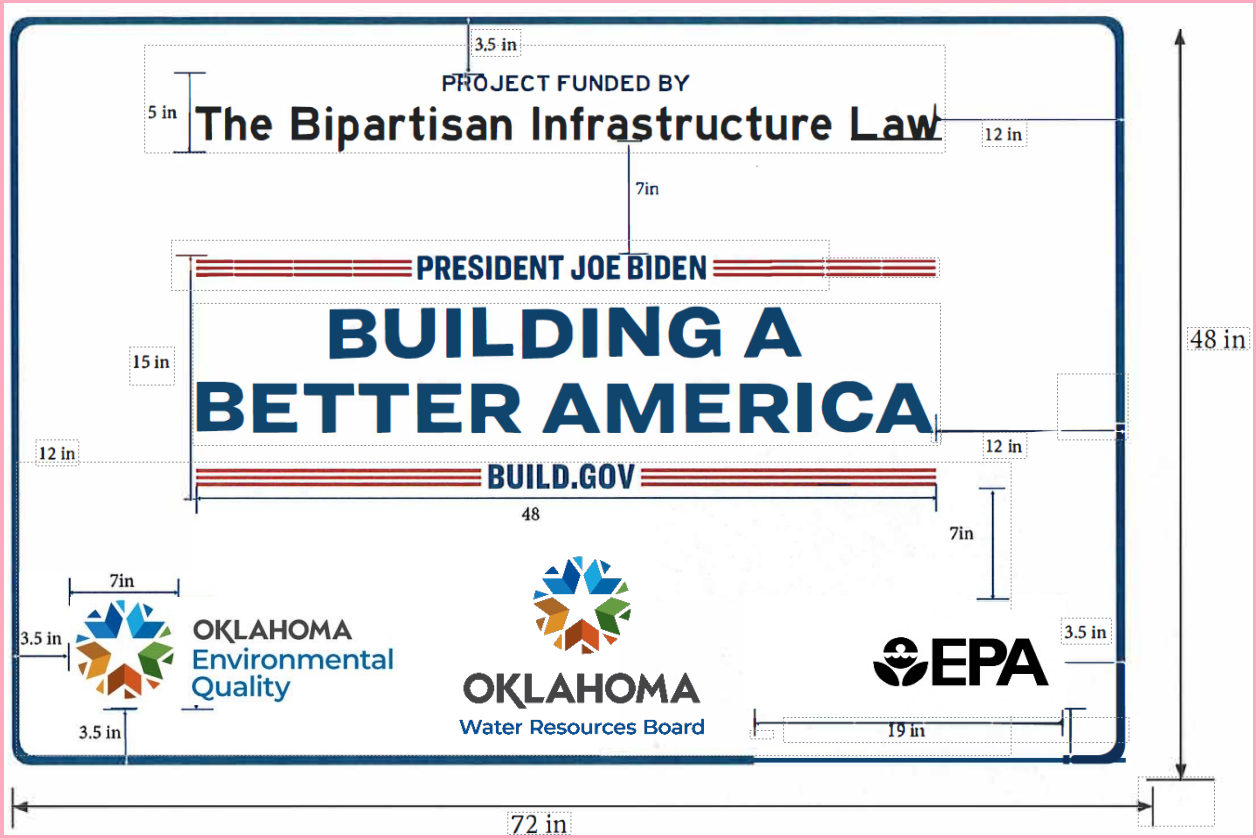
Three bonds are required for all contracts with a value exceeding Seven Thousand Five Hundred Dollars (\$7,500.00) They are : (1.) Performance Bond to insure the completion of the work in accordance with the contract documents in the time stipulated; (2.) Maintenance Bond to provide for defects in construction or materials for a period of one (1) year from the date of acceptance of the completed work; and (3.) Statutory Bond to assure the Owner is protected from the action of subcontractors, suppliers and employees for unpaid debts of the contractor.

Irrevocable Letters of Credit may be used as a substitute for bonds on contracts One Hundred Thousand Dollars (\$100,000.00) or less. The letters of credit must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on forms obtained from the Owner.

### PROJECT SIGN

- The general contractor shall erect and maintain for the life of the construction contract a suitable sign, 4' x 6' in size, and detailed hereon, lettered black on white background.
- Sign shall be professionally painted.
- Lettering to be appropriate size.
- Posts shall be 4" x 4" x 10' buried securely a minimum of 3 feet below ground.
- Sign face shall be constructed of 3/4" x 4' x 6' – 5 ply Dura-plywood board & mounted to Posts with four (4) 5/8" x 6" Carriage Bolts.
- Sign shall be the general obligation of the Contractor. The Contractor must provide maintenance to prevent deterioration or provide repairs for damage caused during the construction period.





Oklahoma Drinking Water State Revolving Fund  
**PROSPECTIVE PRIME CONTRACTOR'S  
(BIDDER) STATEMENT ABOUT  
EQUAL OPPORTUNITY CLAUSE**

- I have participated in previous contract(s) or subcontract(s) subject to the equal opportunity clause under Executive Orders 11246 and 11375 or preceding Executive Orders 10925 and 11114. I have filed all reports due under the requirements contained in 40 CFR, Part C, 8.11.
- I have not participated in previous contract(s) subject to the equal opportunity clause under Executive Orders 11246 and 11375 or preceding Executive Orders 10925 and 11114.

I will obtain a similar statement from any proposed subcontractor(s), when appropriate.

---

(Signature, Title of Prospective Prime Contractor or Subcontractor's Representative and Date)

---

(Printed or typed Name and Title of Prospective Prime Contractor or Subcontractor's Representative)

---

---

---

(Name and address of Prospective Prime Contractor or Subcontractor)

Oklahoma Drinking Water State Revolving Fund  
**PROSPECTIVE PRIME CONTRACTOR'S  
(BIDDER) CERTIFICATION OF  
NONSEGREGATED FACILITIES**

I hereby certify that I do not and will not maintain any facilities provided for my employees in a segregated manner or permit my employees to perform their services at any location under my control where segregated facilities are maintained; and that I will obtain a similar certification prior to the award of any federally assisted subcontract exceeding \$10,000 which is not exempted from the equal opportunity clause.

---

(Signature and Title of Prospective Prime Contractor's Representative)

---

(Printed or Typed Name and Title of Prospective Prime Contractor's Representative)

---

---

---

(Name and Address of Prospective Prime Contractor)

Oklahoma Drinking Water State Revolving Fund  
**NONCOLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any government official or employee as to quantity, quality, or price in the prospective contract, or any other terms of said prospective contract; or in any discussions between bidders and any government official concerning exchange of money or other value for special consideration in the letting of a contract; that the bidder/contractor had not paid, given or donated or agreed to pay, give or donate to any officer or employee of the \_\_\_\_\_ (or other entity) any money or other thing of value, either directly or indirectly in the procurement of a contract or pursuant to this bid.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:



## Oklahoma Drinking Water State Revolving Fund NOTICE OF AWARD

To: \_\_\_\_\_ (Contractor)

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

Project Description: \_\_\_\_\_

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

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated \_\_\_\_\_ and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \_\_\_\_\_ (\$\_\_\_\_\_).

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR's Performance Bond and Certificate of Insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER's acceptance of your BID as abandoned and as a forfeiture of your Bid Bond. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of the NOTICE OF AWARD to the OWNER.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
BY

\_\_\_\_\_  
TITLE

### ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and hereby certify that this firm does not appear on the List of Parties Excluded from Federal Procurement Programs, i.e., list of Debarred Contractors.

\_\_\_\_\_  
BY

\_\_\_\_\_  
TITLE

# CONTRACT

THIS CONTRACT made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between MIDWEST CITY MUNICIPAL AUTHORITY, located in Midwest City, Oklahoma, a Municipal Corporation, acting by and through the Mayor and City Council, party of the first part, hereinafter referred to as "AUTHORITY", and \_\_\_\_\_, party of the second part, hereinafter referred to as "CONTRACTOR".

## WITNESSETH:

WHEREAS, the AUTHORITY has caused to be prepared in accordance with law, certain Contract Documents and Technical Specifications (including Plans) for the work hereinafter described, and has caused a Solicitation for Bids to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for

### **SERVICE LINE CONNECTIONS PROJECT** **DWSRF PROJECT NO.: P40-1020806-01**

WHEREAS, the Contractor in response to said Solicitation for Bids submitted to the AUTHORITY in the manner and at the time specified a sealed proposal in accordance with the terms and provisions of said Contract Documents and Technical Specifications, Plans and Addenda(s) associated with this project; and

WHEREAS, the AUTHORITY, in the manner provided by law, has publicly opened, examined, and canvassed all the proposals submitted and has determined and declared the above named Contractor to be the best responsive bidder on the above described project; and

WHEREAS, the AUTHORITY, has duly awarded this Contract to said Contractor at the contract unit prices bid and as specified in the Contractor's proposal, to wit:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
Said proposal of \_\_\_\_\_ is incorporated by reference into this contract. The actual amount to be paid to the Contractor will be based on the unit price in the Contractor's proposal times the unit quantities actually used and accepted for this project.

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants herein contained, the parties to this Contract have agreed, and hereby agree, as follows:

1. The Contractor shall, in a good and first-class workmanlike manner, at his own cost and expense, furnish all labor and materials, tools, and equipment required to

perform and complete said work in strict accordance with this Contract, the Contract Documents and Technical Specifications and all applicable Addenda, all of which are on file in the office of the Secretary, Midwest City Municipal Complex, 100 N. Midwest Boulevard, Midwest City, Oklahoma, and hereby incorporated by reference and made a part of this Contract as if the same were each herein set out at length.

2. The Contractor acknowledges that Davis Bacon Act wages rules shall apply. All laborers and mechanics employed by contractors and sub-contractors on projects funded directly by or assisted in whole or in part by the through the Federal Government shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of Title 40, United States Code and the DW-185 Supplemental Conditions (Pink Sheets). The Department of Labor provides all pertinent information related to compliance with labor standards and including prevailing wage rates and for reporting. For more information please refer to "<http://www.SAM.gov>."

3. The Contractor acknowledges to and for the benefit of Midwest City Municipal Authority (Authority) and the Oklahoma Drinking Water State Revolving Fund (the "Funding Agency") that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and the Funding Agency that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner or the Funding Agency. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner or Funding Agency to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Owner or Funding Agency resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Funding Agency or any damages owed to the Funding Agency by the Owner). While the Contractor has no direct contractual privity with the Funding Agency, as a lender to the Owner for the funding of its project, the Owner and the Contractor agree that the Funding Agency is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Funding Agency.

4. The AUTHORITY will make progress payments to the Contractor no more than once per month upon request of the Contractor.

Such payment will be made on the basis of an agreed estimate of work performed since the previous pay request, provided that the Contractor and the Project Manager shall have previously come to an agreement as to the amount of the request prior to submission.

The City shall retain five percent (5%) of the amount of each estimate until the project is complete. This retainage shall not be released until final acceptance of project by the City Council.

Each monthly estimate for payment must contain or have attached an affidavit for payment, as set forth in the Contract Documents and Technical Specifications.

On completion of the work, but prior to the acceptance by the AUTHORITY, it shall be the duty of the City Engineer/Project Manager, or his authorized designee, to determine that said work has been completed and fully performed in accordance with said Contract Documents and Technical Specifications and all applicable Addenda; and upon making such determination said official shall make his final certificate to the AUTHORITY.

The Contractor hereby agrees to commence work under the Contract on a date specified in a written "Notice to Proceed" of the Owner, and to complete the following project milestones within the calendar days indicated in the following table.

### **Project Milestones**

<b>Milestone #</b>	<b>Description</b>	<b>Calendar Days</b>
1	All Work will be substantially complete within 90 calendar days after the date when the Contract Times commence to run in accordance with the General and Supplementary Conditions.	Ninety (90)
2	All Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within <b>120</b> calendar days after the Contract Times commence to run.	One-hundred and Twenty (120)

The Contractor agrees to complete each milestone to a level of substantial completion, as defined by the General Conditions, within **the calendar days indicated in the above table.** The CONTRACTOR further agrees to pay as liquidated damages, for each milestone, the sum of **One Thousand Dollars and 00/100 (\$1,000.00) for each**

**consecutive calendar day** thereafter as hereinafter provided in the General Conditions. Additionally, the CONTRACTOR agrees to fully complete the project, securing the ENGINEER's recommendation of final payment as described by the General Conditions, within **One-hundred and Twenty (120) consecutive calendar days**. The CONTRACTOR further agrees to pay as additional liquidated damages the sum of **Five Hundred Dollars and 00/100 (\$500.00) for each consecutive calendar day** thereafter. The liquidated damages for exceeding each project milestone and final completion milestone shall be additive.

The Contractor shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit constituting the Contractor's Release to the Authority as set forth in the Contract Documents and Technical Specifications; thereupon, the final estimate (including any retained amounts) will be approved and paid.

5. Discrimination. The Contractor agrees in connection with the performance of work under this contract as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, disability, age or ancestry. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, (including apprenticeship.) The Contractor agrees to include this non-discrimination clause in any subcontracts connected with the performance of this Contract.
- b. The Contractor and Subcontractor shall agree to post in a conspicuous place available to employees and applicants for employment, notice to be provided by the Secretary of Midwest City Municipal Authority setting forth the provisions of this section.
- c. In the event of the Contractor's non-compliance with the above non-discrimination clause, this Contract may be terminated by the AUTHORITY. The Contractor may also be declared by the AUTHORITY to be ineligible for future contracts with the AUTHORITY until satisfactory proof of intent to comply shall be made by the Contractor.

6. Use of Subcontractors. The Contractor shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. At the request of the AUTHORITY, the Contractor shall furnish evidence of compliance with this requirement of minority solicitation. The Contractor further agrees to consider the grant of subcontracts to minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses.

7. Entire Contract. This Contract and all the documents incorporated by reference contain the entire understanding and agreement of the parties upon the subject matter hereof. There is no agreement, oral or otherwise, which is not set forth in writing hereto or attached. This Contract includes the following items: this Contract, the Contract Documents and Technical Specifications, all applicable Addenda and the Contractor's Proposal.

8. Modification and Termination. This Contract cannot be modified or terminated except in writing signed by both parties or as otherwise provided herein.

9. Assignment. This Contract shall not be assigned without the written consent of the AUTHORITY.

10. Bankruptcy. If the Contractor becomes bankrupt or insolvent, or if a petition in bankruptcy is filed against the Contractor, or if a receiver is appointed for the Contractor, the AUTHORITY shall have the right to terminate this Contract upon written notice to the Contractor without prejudice to any claim for damages or any other right of the CITY under this Contract to the time of such termination.

11. Variables in Cost. The parties hereto assume and understand that the variables in Contractor's cost of performance may fluctuate; consequently, the parties hereto agree that any fluctuations in Contractor's costs will in no way alter the Contractor's obligations under this Contract nor excuse performance or delay on his part.

12. Choice of Laws and Venue. This Contract shall be governed by the laws of the State of Oklahoma. Any lawsuit brought concerning this Contract shall be filed with the appropriate state court, Comanche County, Oklahoma or with the United States District Court for Western District of Oklahoma, as applicable.

13. This Contract requires proper signature and acceptance by the Contractor and approval by the Midwest City Municipal Authority before it becomes effective.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in three (3) originals, the day and year first above written.

(FOR CORPORATIONS ONLY)

\_\_\_\_\_  
Name of Corporation

By \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Title \_\_\_\_\_  
(AFFIX SEAL)

(FOR PARTNERSHIPS AND PROPRIETORSHIPS)

\_\_\_\_\_  
Name of Partnership or Proprietorship

By \_\_\_\_\_

Title \_\_\_\_\_

Oklahoma Drinking Water State Revolving Fund  
**CERTIFICATION REGARDING LOBBYING**  
FOR CONTRACTS OR SUBAGREEMENTS UNDER  
FEDERAL CONTRACTS, GRANTS OR LOANS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with the instructions on that form.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreement and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

DATE: \_\_\_\_\_ BY: \_\_\_\_\_

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Grantee

P40-\_\_\_\_\_



Oklahoma Drinking Water State Revolving Fund  
**CERTIFICATE OF APPROVAL  
OF CONTRACT AND BONDS**

I, the undersigned \_\_\_\_\_, being duly authorized and acting legal representative of \_\_\_\_\_, \_\_\_\_\_ County, State of Oklahoma, do certify as follows:

I have examined the construction contract between the contractor, \_\_\_\_\_, and the above named entity, and the surety bonds given by the contractor in connection with the performance of said contract, and the manner of execution of the contract and surety bonds; and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto, acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named therein; and that the foregoing contract and surety bonds constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
ATTORNEY  
\_\_\_\_\_ County  
State of Oklahoma

Oklahoma Drinking Water State Revolving Fund  
**NOTICE TO PROCEED**

TO: \_\_\_\_\_ (Contractor)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified to commence WORK in accordance with the Agreement dated:  
\_\_\_\_\_, \_\_\_\_\_, on or before \_\_\_\_\_, \_\_\_\_\_, and you are  
to complete the WORK within \_\_\_\_\_ consecutive calendar days thereafter. The date of  
completion of all WORK is, therefore, \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
OWNER  
  
\_\_\_\_\_  
BY  
  
\_\_\_\_\_  
TITLE

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
BY  
  
\_\_\_\_\_  
TITLE

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

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



challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*

- a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
- c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
- d. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.

17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
  - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
  - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
  - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor’s plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.
43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or

subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.

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

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an

exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - 1. does not conform to the Contract Documents;
  - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
  - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
  - 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

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

## ARTICLE 2—PRELIMINARY MATTERS

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

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

### 2.02 *Copies of Documents*

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

2.03 *Before Starting Construction*

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Acceptance of Schedules*

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



3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

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

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

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

G. Nothing in the Contract Documents creates:

1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

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

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

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

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

standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

**B. *Resolving Discrepancies***

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

**3.04 *Requirements of the Contract Documents***

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

and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

**ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

#### 4.04 *Progress Schedule*

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

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

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

adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and

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

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

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

- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the

officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

#### 5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
  - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
  - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such



express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
  2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
  3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
  4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

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

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

- B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
  - 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
    - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
  - 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;

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

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
  - 1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  - 2. complying with applicable state and local utility damage prevention Laws and Regulations;
  - 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  - 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  - 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.

C. *Engineer's Review*: Engineer will:

1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

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

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in

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

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

5.06 *Hazardous Environmental Conditions at Site*

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

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

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

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

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

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 6—BONDS AND INSURANCE

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

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.



6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and “Occupational Accident and Excess Employer’s Indemnity Policies,” are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party’s full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party’s obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner’s option, may purchase and maintain Owner’s own liability insurance. Owner’s liability

policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

H. Contractor shall require:

1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.

I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.

K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.

M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.

N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

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

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

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

#### 6.05 *Property Losses; Subrogation*

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

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

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

and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

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

**ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

7.01 *Contractor's Means and Methods of Construction*

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

7.02 *Supervision and Superintendence*

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

7.03 *Labor; Working Hours*

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

7.04 *Services, Materials, and Equipment*

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

7.05 “Or Equals”

- A. *Contractor’s Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an “or equal” item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
      - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      - 3) has a proven record of performance and availability of responsive service; and
      - 4) is not objectionable to Owner.
    - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
      - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
      - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor’s Expense:* Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.
- C. *Engineer’s Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each “or-equal” request. Engineer may require Contractor to furnish additional data about the proposed “or-equal” item. Engineer will be the sole judge of acceptability. No “or-equal” item will be ordered, furnished, installed, or utilized until Engineer’s review is complete and Engineer determines that the proposed item is an “or-equal,” which will be evidenced by



an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria:* Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
    - a. will certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design;
      - 2) be similar in substance to the item specified; and
      - 3) be suited to the same use as the item specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;

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

appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

**7.07** *Concerning Subcontractors and Suppliers*

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

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

7.08 *Patent Fees and Royalties*

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

resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

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

7.10 *Taxes*

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

7.11 *Laws and Regulations*

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

changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.12 *Record Documents*

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

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

#### 7.14 *Hazard Communication Programs*

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

#### 7.15 *Emergencies*

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

## 7.16 Submittals

### A. Shop Drawing and Sample Requirements

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

### B. Submittal Procedures for Shop Drawings and Samples: Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

#### 1. Shop Drawings

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to



provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

- a. Contractor shall submit the number of Samples required in the Specifications.
  - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

*D. Resubmittal Procedures for Shop Drawings and Samples*

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

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

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

2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

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

5. Any review and approval of a Shop Drawing or Sample submittal;
  6. The issuance of a notice of acceptability by Engineer;
  7. The end of the correction period established in Paragraph 15.08;
  8. Any inspection, test, or approval by others; or
  9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 *Indemnification*

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

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

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the

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

## **ARTICLE 8—OTHER WORK AT THE SITE**

### **8.01 *Other Work***

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also

arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 *Coordination*

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

2. An itemization of the specific matters to be covered by such authority and responsibility; and
  3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
  2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.

- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9—OWNER'S RESPONSIBILITIES**

### **9.01 *Communications to Contractor***

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

### **9.02 *Replacement of Engineer***

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

### **9.03 *Furnish Data***

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

### **9.04 *Pay When Due***

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

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

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



9.06 *Insurance*

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

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

**ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION**

10.01 *Owner's Representative*

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

#### 10.02 *Visits to Site*

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

#### 10.03 *Resident Project Representative*

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

#### 10.04 *Engineer's Authority*

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

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

10.05 *Determinations for Unit Price Work*

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

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

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

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

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

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

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

10.08 *Compliance with Safety Program*

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

**ARTICLE 11—CHANGES TO THE CONTRACT**

11.01 *Amending and Supplementing the Contract*

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

11.02 *Change Orders*

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

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

#### 11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
  - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
  - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

#### 11.04 *Field Orders*

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

#### 11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly

proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.

- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.06 *Unauthorized Changes in the Work*

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

#### 11.07 *Change of Contract Price*

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

- b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
- c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
- d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
- f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

#### 11.08 *Change of Contract Times*

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

#### 11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other

relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

**B. *Change Proposal Procedures***

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

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

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



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

#### 11.10 *Notification to Surety*

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

### **ARTICLE 12—CLAIMS**

#### 12.01 *Claims*

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

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

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

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

### 13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
  3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors

acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
    - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
  - c. *Construction Equipment Rental*
    - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
    - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
    - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs

will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
  - g. The cost of utilities, fuel, and sanitary facilities at the Site.
  - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
  - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
  - 2. The cost of purchasing, renting, or furnishing small tools and hand tools.

3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
6. Expenses incurred in preparing and advancing Claims.
7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

**D. Contractor's Fee**

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

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

### 13.02 Allowances

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

### 13.03 Unit Price Work

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

E. *Adjustments in Unit Price*

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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



inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

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

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

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

#### 14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

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

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

### **15.01 *Progress Payments***

- A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
  - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
  - 3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
  - 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications*
  - 1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the

Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

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

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

*D. Payment Becomes Due*

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

*E. Reductions in Payment by Owner*

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

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

15.02 *Contractor's Warranty of Title*

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

### 15.03 *Substantial Completion*

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



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

15.04 *Partial Use or Occupancy*

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

15.05 *Final Inspection*

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

## 15.06 *Final Payment*

### A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all duly pending Change Proposals and Claims; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are

necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such adjacent areas;

2. correct such defective Work;
  3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

### *16.01 Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer.

Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

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

unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

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

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

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

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

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17—FINAL RESOLUTION OF DISPUTES**

### **17.01 *Methods and Procedures***

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

## **ARTICLE 18—MISCELLANEOUS**

### **18.01 *Giving Notice***

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

3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

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

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party



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

18.09 *Successors and Assigns*

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

18.10 *Headings*

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

# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement EJCDC® C-700, Standard General Conditions of the Construction Contract (2018). The General Conditions remain in full force and effect except as amended.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, "Paragraph SC-4.05."

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

SC-1.01 Delete Paragraph 1.01.A.16 in its entirety and insert the following in its place:

*Contractor*—a person, firm or corporation with whom the contract is made by the Owner.

Delete Paragraph 1.01.A.22 in its entirety and insert the following in its place:

*Engineer*—The term engineer shall apply to the City Engineer or his duly designated representative, the Director of Public Utilities. A Consultant Engineer, Garver, LLC, has been hired by the Owner to provide advice, assistance or direction concerning the contract.

Delete Paragraph 1.01.A.30 in its entirety and insert the following in its place:

*Owner*—The term Owner shall apply to the City of Lawton, A Municipal Corporation, also referred to as the "CITY."

Renumber Paragraph 1.01.A.39 *Specifications* to 1.01.A.39.a and add a new paragraph immediately following paragraph 1.01.A.39.a *Specifications* as follows:

1.01.A.39.b *Standard Specifications*-Wherever in these Contract Documents reference is made to the Standard Specifications, said reference shall be understood as referring to the [A: ] which applicable parts are incorporated herein and made a part of these Documents by specific reference thereto. If requirements contained in the Standard Specifications are modified by or are in conflict with supplemental information in these Contract Documents, the requirements of these Contract Documents shall prevail.

Delete Paragraph 1.01.A.40 in its entirety and insert the following in its place:

*Subcontractor*—A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreements with, the Contractor.

Supplement paragraph 1.01.A.42 Substantial Completion of the General Conditions as follows:

Substantial Completion is further defined as (i) that degree of completion of the Project's operating facilities or systems sufficient to provide the OWNER the full time, uninterrupted, continuous beneficial operation of the Work; and (ii) all required functional, performance and acceptance or startup testing has been successfully demonstrated for all components, devices, equipment, and instrumentation and control to the satisfaction of the ENGINEER in accordance with the requirements of the Specifications; and (iii) all inspections required have been completed and identified conditions corrected.

Specific items of Work which shall be completed prior to declaration of Substantial Completion date include but are not limited to, the following:

1. Conformance with all training services requirements.
2. Correction of all state, local, and other regulatory agencies defective Work lists.
3. Submittals have been received and approved by the ENGINEER including, but not necessarily limited to, the following:
  - a. Record documents.
  - b. Operation and maintenance manuals, including service and maintenance agreements.
  - c. Equipment data forms.
  - d. Manufacturers' certificates of proper installation.
  - e. Factory test reports.
4. All special accessories have been provided that are required to place each item of equipment in full operation. These special accessory items include, but are not limited to, specified spare parts, test equipment, adequate oil and grease or other lubrication, air filters, light bulbs, fuses, special tools, valve operators, and other expendable items required for startup and operation of the operating facilities or systems as a whole.
5. All additional warranty or insurance coverage requirements have been provided.

Delete Paragraph 1.01.A.49 in its entirety and insert the following in its place:

*Work on (at) the project*—Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor or any Subcontractor.

## **ARTICLE 2—PRELIMINARY MATTERS**

### **2.01**    *Delivery of Bonds and Evidence of Insurance*

SC-2.01    Add the following language at the end of Paragraph 2.01.B:

The Contractor shall not commence work under this contract until he has obtained all the insurance required in accordance with Article 6 and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until the insurance required of the Subcontractor has been so obtained and approved.

The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certification will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

### **2.02**    *Copies of Documents*

SC-2.02    Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

- A. Owner shall furnish to Contractor four printed copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.

SC-2.02    Amend Paragraph 2.02 by adding the following subparagraphs:

- C. The Project Engineer/Project Manager will furnish the Contractor with four (4) sets of plans and specifications at no cost to the Contractor. If additional sets are required, the Contractor will be required to pay the Owner \$25.00 for each additional set.

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

### **3.02**    *Reference Standards*

SC-3.02 Amend Paragraph 3.02.A by adding the following subparagraphs:

3. Where other specifications are cited (such as Standard Specifications for Highway Construction; Oklahoma State Department of Transportation, AASHTO, etc.,) then the latest edition of these specifications shall be deemed fully incorporated by reference.

#### **ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

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

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

5. Additional unforeseeable cause beyond the control and without the fault or the negligence of the Contractor, includes, but is not restricted to acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, quarantine restrictions, strikes, freight embargoes, and severe weather occurring prior to the original completion date. Except that in the case of severe weather the original completion date as set out in the contract shall be adjusted for severe weather occurring prior to the date originally specified in the contract as the date on which all work pursuant the terms of the contract is to be completed. The revised date, adjusted as described, will be known as the adjusted completion date. There shall be no further adjustment or adjustments to the adjusted completion date, for any reason, once the adjusted completion date has been determined. All conditions of the contract must be satisfied by the Contractor on or before the original completion date or adjusted completion date, whichever is applicable. If all contract requirements have not been met by the original completion date or adjusted completion date, if applicable, liquidated damages, regardless of weather conditions, shall apply for all subsequent days until the actual completion of the contract terms by the Contractor.

SC-4.05.D Amend Paragraph 4.05.D Paragraph 1. By adding the following sentence at the end of the paragraph:

Provide up to 90 days of Owner-Caused Delays into the critical path schedule.

SC-4.05 Amend Paragraph 4.05 by adding the following subparagraphs:

- H. Time for Completion and Liquidated Damages.
  1. It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed."

2. The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same; taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
3. If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor hereby agrees, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, **not as a penalty but as liquidated damages for such breach of contract** as hereinafter set forth, for each and every consecutive calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.
4. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain; and said amount is agreed to be the amount of the damages which the Owner would sustain and shall be retained from time to time by the Owner from current periodical estimates.
5. It is agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever. Where, under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract.
6. Provided, that the Contractor shall, within ten (10) days from the beginning of delay as set forth in (g) above, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of delay. The Owner shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

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

### *5.02 Use of Site and Other Areas*

SC-5.02 Supplement Paragraph 5.02 with the following provisions:

- E. The Contractor shall carefully remove all salvageable materials. They shall be delivered to the City of Lawton's Public Works Yard. All non-salvageable material shall become the property of the Contractor and shall be properly disposed of by the Contractor. This activity is not a pay item, and work herein is to be included in price bid for other items of work.

Determination of materials to be salvaged shall be made by the Project Engineer/Project Manager. Upon request from the Contractor, waste material from the project may be hauled to the City of Lawton Landfill by the Contractor. The landfill tipping fees will be waived by the City.

5.03 *Subsurface and Physical Conditions*

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely:

Report Title	Date of Report	Technical Data
None		

- F. The following table lists the drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely:

Drawings Title	Date of Drawings	Technical Data
None		

5.05 *Underground Facilities*

SC-5.05 Supplement Paragraph 5.05.A with the following provisions:

6. The Contractor shall be responsible for verifying location of utilities (i.e. power poles, gas lines, T.V. lines, buried cables, etc.) public and private ***even if not noted on the plans***, by calling 1-800-522-OKIE (1-800-522-6543).

5.06 *Hazardous Environmental Conditions*

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely:

Report Title	Date of Report	Technical Data
None		



5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely:

Drawings Title	Date of Drawings	Technical Data
None		

## ARTICLE 6—BONDS AND INSURANCE

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

SC-6.01 Delete Paragraph 6.01.A in its entirety and insert the following in its place:

The Contractor shall furnish a Performance Bond in an amount at least equal to one hundred percent (100%) of the contract price as security for the faithful performance of this contract and also a Statutory Bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, territorial or local law, as security for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The Performance Bond and the Statutory Bond may be in one or in separate instruments in accordance with local law.

Amend the second sentence of Paragraph 6.01.C:

All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, ~~and must be issued and signed by a surety named in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury.~~

Add the following paragraph immediately after Paragraph 6.01.E:

If at any time the Owner for justifiable cause shall become dissatisfied with any surety or sureties, then upon the Performance or Statutory Bonds, the Contractor shall within five (5) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

### 6.02 *Insurance—General Provisions*

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

- 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 provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

6.03 *Contractor's Insurance*

SC-6.03 Supplement Paragraph 6.03 with the following provisions:

D. *Workers' Compensation Insurance:* The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance as required by the State of Oklahoma for all of his employees to be engaged in work at the site of the project under this contract, and in case of any such work sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

E. *Contractor's General Liability and Property Damage Insurance and Vehicle Liability Insurance:*

The Contractor shall procure and shall maintain during the life of this contract, Contractor's General Liability Insurance, Contractor's Property Damage Insurance, and Vehicle Liability Insurance as follows:

Comprehensive General Liability and Bodily Injury:

Bodily Injury	<u>\$ 125,000.00</u> per person per occurrence
Property Damage	<u>\$ 100,000.00</u> each occurrence
Combined Single Limit	<u>\$1,000,000.00</u> per occurrence combined limit

Comprehensive Automobile:

Liability, Bodily Injury	<u>\$ 125,000.00</u> per person per occurrence
Property Damage	<u>\$ 100,000.00</u> each occurrence
Combined Limit	<u>\$1,000,000.00</u> per occurrence combined limit

F. *Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:* The Contractor shall either,

(1) require each of his Subcontractors to procure, and to maintain during the life of his subcontract, Subcontractor's Public Liability Insurance of the type and in the amounts specified in subparagraph (E) hereof, or

(2) ensure the activities of his Subcontractors in his own policy, specified in subparagraph (E) hereof.

G. *Scope of Insurance and Special Hazards:* The insurance required under subparagraphs E. and F. hereof shall provide adequate protection for the Contractor and his Subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by him, and also against any of the special hazards which may be encountered in the performance of this contract.

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

SC-6.04 Supplement Paragraph 6.04 with the following provisions:

F. *Builder's Risk Insurance (Fire and Extended Coverage):* Until the project is completed and accepted by the Owner, the Contractor (at the Owner's option) is required to maintain Builder's Risk Insurance (fire and extended coverage) on a one hundred percent (100%) completed value basis on the insurable portion of the project for the benefit of the Owner, the Contractor, and Subcontractors as their interests may appear. This provision shall not release the Contractor from his obligation to complete, according to the plans and specifications, the project covered by the contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.

### **ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

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

SC-7.02 Supplement Paragraph 6.04 with the following provisions:

C. At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have the full authority to act for the Contractor.

#### 7.03 *Labor; Working Hours*

SC-7.03 Delete Paragraph 7.03.C in its entirety, and insert the following:

C. In the absence of any Laws or Regulations to the contrary, Contractor may perform the Work on holidays, during any or all hours of the day, and on any or all days of the week, at Contractor's sole discretion. Any work necessary to be performed after regular hours, on Sundays or Legal Holidays, shall be performed without additional expense to the Owner.

Contractor (and Subcontractor) regular working hours consist of 8 working hours within a 11-hour period between 7:00 a.m. and 6:00 p.m., on a regularly scheduled basis, excluding Sundays and holidays. Overtime work is work in excess of 8 hours per day or 40 hours per week or work not within the regular working hours.

SC-7.03 Supplement Paragraph 7.03 with the following provisions:

- D. *Minimum Wages:* laborers and mechanics employed upon the work covered by this Contract shall be paid unconditionally and not less often than once each week, and without subsequent deduction or rebate of any account (except such payroll deductions as are made mandatory by law and such other payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to the Anti-Kickback Act hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached and herein incorporated by reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such laborers and mechanics. All laborers and mechanics employed upon such work shall be paid in cash, except that payment may be by check if the employer provides or secures satisfactory facilities approved by the Owner for the cashing of the same without cost or expense to the employee. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period
- E. *Underpayment of Wages or Salaries:* In case of underpayment of wages by the Contractor or by any Subcontractors to laborers or mechanics employed by the Contractor or Subcontractor upon the work covered by this Contract, the Owner in addition to such other rights as may be afforded it under this Contract, shall withhold from the Contractor, out of any payments due the Contractor, so much thereof as the Owner may consider necessary to pay such laborers or mechanics the full amount of wages required by this Contract. The amount so withheld may be disbursed by the Owner, for and on account of the Contractor or the Subcontractor (as may be appropriate), to the respective laborers or mechanics to whom the same is due or on their behalf prescribed in the applicable wage determination.
- F. *Anticipated Costs of Fringe Benefits:* If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing fringe benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is part of this Contract; provided, however, the Secretary of Labor has found,

upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. A copy of findings made by the Secretary of Labor in respect to fringe benefits being provided by the Contractor must be submitted to the Owner with the first payroll filed by the Contractor subsequent to receipt of the findings.

G. *Overtime Compensation Required by Contract Works Hours and Safety Standards Act (76 Stat. 357-360: Title 40 U.S.C., Sections 327-332):*

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, including watchmen and guards, which he is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week.
2. Violations/Liability for Unpaid Wages Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1), the Contractor and any Subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violations of the clause set forth in paragraph (1), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1).
3. Withholding for Liquidated Damages. The Owner shall withhold or cause to be withheld, from any monies payment on account of work performed by the Contractor or Subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for liquidated damages as provided the clause set forth in paragraph (2).
4. Subcontracts. The Contractor shall insert in any subcontracts the clauses set forth in paragraphs (1), (2), and (3) of this Section and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontractors which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

H. *Employment of Apprentices/Trainees:*

1. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor,

Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (2) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rates determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or Subcontractor will be required to furnish to the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the areas of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

2. Trainees. Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidence by formal certification, by the U.S. Department of Labor, Manpower Administration, Bureau of Apprentice and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or Subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
3. Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

- I. *Employment of Certain Persons Prohibited:* No person under the age of sixteen or no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.
- J. *Regulations Pursuant to So-Called "Anti-Kickback Act.:"* The Contractor shall comply with the applicable regulations (a copy of which is attached and herein incorporated by reference) of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948: 62 Stat. 862; Title 18 U.S.C., Section 874; and Title 40 U.S.C., Section 276c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all Subcontractors subject thereto, and shall be responsible for the submission of affidavits required by Subcontractors thereunder, except as said Secretary of labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirement thereof.
- K. *Employment of Laborers or Mechanics Not Listed in Aforesaid Wage Determination Decision:* Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract will be classified or reclassified comfortably to the wage determination by the Owner, and a report of the action taken shall be submitted by the Owner, through the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the Owner shall be referred, through the Secretary of Housing and Urban Development, to the Secretary of Labor for final determination.
- L. *Fringe Benefits Not Expressed as Hourly Wages Rates:* The Owner shall require, 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 wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the questions, accompanied by the recommendation of the Owner, shall be referred, through the Secretary of Housing and Urban Development, to the Secretary of Labor for determination.
- M. *Posting Wage Determination Decisions and Authorized Wage Deductions:* The applicable wage poster of the Secretary of Labor, United States Department of Labor, and the applicable wage determination decisions of said Secretary of Labor with respect to the various classification of laborers and mechanics employed and to be employed upon the work covered by this Contract, and a statement showing all deductions, if any, in accordance with the provisions of this Contract, to be made from wages actually earned by persons so

employed or to be employed in such classifications, shall be posted at appropriate conspicuous points at the site of the work.

- N. *Complaints, Proceedings, or Testimony by Employees:* No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any Subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contractor to his employer.
- O. *Claims and Disputes Pertaining to Wages:* Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this Contractor shall be promptly reported by the Contractor in writing to the Owner for referral by the latter through the Secretary of Housing and Urban Development to the Secretary of Labor, United States Department of Labor, whose decision shall be final with respect thereto.
- P. *Questions Concerning Certain Federal Statutes and Regulations:* All questions arising under this Contract which relate to the application or interpretation of (a) the aforesaid Anti-Kick-back Act, (b) the Contract Work Hours and Safety Standards Act, (c) the aforesaid Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred, through the Owner and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.
- Q. *Payrolls and Basic Payroll Records of Contractor and Subcontractors:* The Contractor and each Subcontractor shall prepare his payroll on forms satisfactory to and in accordance with instructions to be furnished by the Owner. The Contractor shall submit weekly to the Local Public Agency or Public Body two certified copies of all payrolls of the Contractor and of the Subcontractors, it being understood that the Contractor shall be responsible for the submission of copies of payrolls of all Subcontractors. Each such payroll shall contain the "Weekly Statement of Compliance" set forth in Section 3.3 of Title 29, Code of Federal Regulations. The payrolls and basic payroll records of the Contractor and each Subcontractor covering all laborers and mechanics employed upon the work covered by this Contract shall be maintained during the course of the work and preserved for a period of three (3) years thereafter. Such payroll and basic payroll records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributions or costs anticipated of the types described in Section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, whenever the Secretary of Labor has found under Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations, that the wages of any laborer or mechanic includes the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section



l(b)(2)(B) of the Davis Bacon Act, the Contractor or Subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor and each Subcontractor shall make his employment records with respect to persons employed by him upon the work covered by this Contract available for inspection by authorized representatives of the Secretary of Housing and Urban Development, the Owner, and the United States Department of Labor. Such representative shall be permitted to interview employees of the Contractor or of any Subcontractor during working hours on the job.

- R. *Specific Coverage of Certain Types of Work by Employees:* The transporting of materials and supplies to or from the site of the Project to which this Contract pertains by the employees of the Contractor or of any Subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project to which this Contract pertains by persons employed by the Contractor or by any Subcontractor, shall, for the purposes of this Contract, and without limiting the generality of the foregoing provisions of this Contract, be deemed to be work to which these, Federal Labor Standards Provisions are applicable.
- S. *Provisions to be Included in Certain Subcontracts:* The Contractor shall include or cause to be included in each subcontract covering any of the work covered by this Contract, provisions which are consistent with any Labor Standards Provisions, included herein and also a clause requiring the Subcontractors to include such provisions in any lower tier subcontracts which they may enter into, together with a clause requiring such insertion in any further subcontracts that may in turn be made.
- T. *Ineligible Subcontractors:* The Contractor shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without the Owner's prior written approval of the Subcontractor. The Owner will not approve any Subcontractor for work covered by this Contract who is at the time ineligible under the provisions of any applicable regulations issued by the Secretary of Labor, United States Department of Labor or the Secretary of Housing and Urban Development, to receive an award of such subcontract.
- U. *Breach of Foregoing Federal Labor Standards Provisions:* In addition to the clauses for termination of this Contract as herein elsewhere set forth, the Owner reserves the right to terminate this Contract if the Contractor or any Subcontractor whose subcontract covers any of the work covered by this Contract shall breach any of these Federal Labor Standards Provisions. A breach of these Federal Labor Standards Provisions may also be grounds for debarment as provided by the applicable regulations issued by the Secretary of Labor, United States Department of Labor.
- V. *Employment Practices:* The Contractor shall, to the greatest extent practicable, follow hiring and employment practices for work on the project that will provide new job opportunities

for the unemployed and underemployed. This clause shall be inserted in each construction subcontract.

- W. *Contract Termination; Debarment:* A breach of Section 45 and the Federal Labor Standards Provisions may be grounds for termination of the Contractor, and for debarment as provided in 29 CFR 5.6.
- X. *Employment of Handicapped Persons:* Where possible, employment of handicapped persons is encouraged.
- Y. *Employment of Female Persons:* Where possible, employment of female persons is encouraged.
- Z. *Employment of Veterans:* The Contractor agrees to provide certification that special consideration with existing applicable collective bargaining agreements and practices, shall be given to the employment on the project of qualified disabled veterans as defined in 38 USC 2011(1), and to qualified Vietnam-era veterans, as defined in 38 USC 2011(2)(A).
- AA. *Equal Employment Opportunity: 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, religion, sex, color, disability, age or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, sex, color, age 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 of this nondiscrimination clause.
  - 2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color, disability, age or national origin.
  - 3. The Contractor will send to each labor union or representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or worker's representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
  5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
  6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be terminated or suspended in whole or in part and the Contractor may be declared ineligible for further CITY contracts or Federally-assisted construction contracts, in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 or September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  7. The Contractor will include the provisions of paragraph (a) through (f) 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 No. 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 Department of Housing and Urban Development may direct as means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department of Housing and Urban Development, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- BB. *Special Equal Opportunity Provisions – Activities and Contracts Not Subject to Executive Order 11246, as Amended (Applicable to Federally assisted construction contracts and related subcontracts under \$10,000):*

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff

or termination, rates of pay or other forms of compensation; and selection of training, including apprenticeship.

2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. Contractors shall incorporate foregoing requirements in all subcontracts.

CC. *Special Equal Opportunity Provisions – Contracts Subject to Executive Order 11246, as Amended (Applicable to Federally assisted construction contracts and related subcontracts exceeding \$10,000):*

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion 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 by the Contracting Officer setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor shall send to each labor union or representatives of works with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employments.
4. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts

by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract, or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order 11246, of September 24, 1965, or by rule, regulation, order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraph (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 Department may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

DD. *Special Equal Opportunity Provisions – Section 3 Compliance in the Provision of Training, Employment and Business Opportunities*

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor agrees to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701 u.), as amended, the HUD regulations issued pursuant thereto at 24 CFR Part 135, and any applicable rules and orders of HUD issued thereunder.
2. The "Section 3 clause" set forth in 24 CFR 135.20(b) shall form part of this contract.
3. Contractor shall incorporate the "Section 3 clause" shown below and the foregoing requirements in all subcontracts.
4. Section 3 Clause as Set Forth in CFR 135.20(b)
  - i. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and 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 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and

contracts for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in the area of the project.

- ii. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135.20, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
  - iii. The Contractor will send to each labor organization or representative of workers with whom he has a collective bargaining agreement or other contract or understanding. If any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
  - iv. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135.20. The Contractor will not subcontract with any Subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135.20 and will not let any subcontract unless the Subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
  - v. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135.20, and all applicable rules and regulations of the Department issued thereunder prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance. Failure to fulfill these requirements shall subject the applicant or recipient, its Contractor and Subcontractors, its successors, and assigns to these sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.20.
- EE. The Contractor will insert in any subcontracts, any Federal Labor Standards Provisions which may be contained herein and such other clauses as the Owner and the Department of Housing and Urban Development may, by instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts which they may enter

into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

**7.07** *Concerning Subcontractors and Suppliers*

SC-7.07 Supplement Paragraph 7.07 with the following provisions:

- N. The Contractor may utilize the services of specialty Subcontractors on those parts of the work that, under normal contracting practices, is performed by specialty Subcontractors.
- O. The Contractor shall not award any work to any Subcontractor without prior written approval of the Owner. Approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the Owner may require.
- P. The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions or persons directly employed by him.
- Q. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provisions of the contract documents.
- R. Nothing contained in this contract shall create any contractual relation between any Subcontractor and the Owner.

**7.08** *Patent Fees and Royalties*

SC-7.08 Supplement Paragraph 7.08 with the following provisions:

- D. License and/or royalty fees for the use of a process that is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the Contractor.

**7.09** *Permits*

SC-7.09 Supplement Paragraph 7.09 with the following provisions:

- B. The City is required to comply with all applicable building codes for its construction activities. The requirement is transferred to the Contractor. The Contractor will apply for a building permit with the License & Permit Division. The fees for the permit and inspections are waived; such costs will be borne by the City.

In order to verify compliance with the building codes, the License & Permit Division Official will inspect various activities. The results of these code-compliance inspections are subject

to approval by the Construction Inspector for contract compliance since the building inspectors are not familiar with specific contract requirements.

In all cases, the most stringent requirements apply. Questions as to specific requirements for the contract should be directed to the Construction Inspector who will resolve conflicts with the building inspectors. The building inspectors are not authorized to relieve the Contractor from the requirements of the contract.

The Contractor should contact the License & Permit Division directly to schedule the appropriate inspections. The Contractor will inform the Construction Inspector of which code-compliance inspections have been requested.

- C. Permits for placing fill or waste materials at any location within the City limits are required by current City Code. The Contractor shall secure such a permit prior to placing any fill or waste within the City limits. Contact the License & Permit Division, City Hall, 212 SW 9<sup>th</sup> Street for appropriate application forms.

#### 7.10 Taxes

SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:

- A. Pursuant to Oklahoma Statutes, Title 68, 1356(10), Contractors and Subcontractors shall be exempted from the tax levied on the sale of tangible personal property or services necessary for the completion of this construction contract. Any Contractor or Subcontractor making purchases for this contract on behalf of the City of Lawton shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the purchases are made for and on behalf of the City of Lawton.

Contractors and Subcontractors shall request a written Sales Tax Exemption by contacting the Sewer System Technical Division, City of Lawton, at 2100 S.W. 6th Street, Lawton, Oklahoma, 73501 (580-581-3405) who will issue such exemption on an individual project basis. It shall be the Contractor's and Subcontractor's responsibility to secure the Sales Tax Exemption and failure to do so will not lessen their liability for payment of the sales tax.

Until the City of Lawton accepts the improvements, purchases for carrying out the contract for construction of this project shall be exempt from sales taxes as provided in the cited statute. Two Tax Commission interpretations of the Oklahoma statutes Title 68 Sec 1356(10) are listed below to avoid contention among the City of Lawton, its Contractors, and the Tax Commission.

**“Exemptions apply to materials incorporated into the project, but not to concrete forms nor to other tools”**

**“The same reasoning precludes exemptions being applied to rental items”**



The Contractor shall certify that purchases are made for or are on behalf of the City of Lawton. Persons who make wrongful or erroneous certifications) shall be guilty of a misdemeanor and shall be punished as provided in the statutes.

### 7.13 *Safety and Protection*

SC-7.13 Add the following language at the end of Paragraph 7.13.C.3:

Trees which are to be removed or trees which die because of construction shall be removed by the Contractor and the price shall be included in other pay items.

SC-7.13 Add the following language at the end of Paragraph 7.13.F:

Property owners will be notified by the City, prior to construction, that it will be the owner's responsibility to remove or relocate fences, trees, shrubs, or other property which they intend to keep. If the items are not removed at the time of construction and are in the way of construction, the Contractor shall remove the items and they shall be stored at the site

The Contractor shall not enter any private property outside the designated right-of-way for material delivery or occupy for any other purpose with men, tools, equipment, construction materials or with materials excavated, without written permission from the Owner and Tenant. If it is necessary or desirable that the Contractor use land outside of the right-of-way, the Contractor shall obtain consent from and shall execute a written agreement with the landowner and tenant.

SC-7.13 Supplement Paragraph 7.13 with the following provisions:

- K. Blasting or burning will not be permitted on this project.
- L. Sanitary Provisions: The Contractor shall establish and enforce among his employees such regulations in regard to cleanliness and the disposal of garbage and waste as will tend to prevent the inception and spread of contagious or infectious diseases and to effectively prevent the creation of a nuisance about the work or any property, either public or private; and such regulations as are required by the Project Engineer/Project Manager shall be put into effect immediately by the Contractor. The necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such manner and at such points as may be approved by the Project Engineer/Project Manager, and their use shall be strictly enforced by the Contractor. All City, State, and Federal sanitary laws and regulations shall be strictly complied with.

### 7.16 *Submittals*

SC-7.16 Supplement Paragraph 7.16 with the following provisions:

- G. Additional submittal procedures are located in the City of Lawton Technical Specifications Section 0700.

- H. Excessive Shop Drawing Resubmission: Engineer will record time required by Engineer or Engineer's Consultants for excessive Submittal review occasioned by Contractor's resubmission, in excess of two resubmissions of a required Submittal, caused by unverified, unchecked or unreviewed, incomplete, inaccurate or erroneous, or nonconforming Submittals. Upon receipt of Engineer's accounting of time and costs, Contractor will reimburse Owner for the charges of Engineer or Engineer's Consultants review for excessive resubmission through set-offs from the recommended Owner payments to Contractor as established in paragraph 14.7.7 of these Supplementary Conditions.

## **ARTICLE 8—OTHER WORK AT THE SITE**

### 8.01 *Other Work*

SC-8.01 Supplement Paragraph 8.01 with the following provisions:

- G. The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Project Engineer/Project Manager immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

## **ARTICLE 9—OWNER'S RESPONSIBILITIES**

### 9.11 *Evidence of Financial Arrangements*

SC-9.11 Supplement Paragraph 9.11 with the following provisions:

- B. *Prohibited Interests:* No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or any part hereof. No officer, employee, architect, attorney, Project Engineer/Project Manager or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

## ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

### 10.03 *Resident Project Representative*

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.B:

- C. The Resident Project Representative will be furnished by Owner.

The responsibilities, authority and limitations thereon of the Resident Project Representative (RPR), assistants and other field staff, are set forth herein. The responsibilities, authority, and limitations of the Resident Project Representative are limited to those of Engineer in paragraph 10.04 of the General Conditions and as set forth elsewhere in the Contract Documents and are further limited and described below.

1. Responsibilities and Authority:

- a. Schedules: Review and monitor the progress schedule, schedule of Submittals submissions and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
- b. Conferences and Meetings: Conduct or attend meetings with Contractor, such as preconstruction conferences, progress meetings, Work conferences and other Project related meetings.
- c. Liaison:
  - 1) Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents;
  - 2) assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's onsite operations;
  - 3) assist in obtaining from Owner additional details or information when required for proper execution of the Work.
- d. Submittals: Receive Submittals which are furnished at the site by Contractor and notify Engineer of availability for examination. Advise Engineer and Contractor of the commencement of any Work, when recognized, requiring a Shop Drawing or Sample if the Submittal has not been approved by Engineer.
- e. Review of Work, Rejection of defective Work, Inspections and Tests:
  - 1) conduct onsite observations of the Work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents;

- 2) inform Engineer and Contractor whenever RPR believes that any Work is unsatisfactory, faulty or defective, or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test, or approval required to be made;
  - 3) advise Engineer whenever RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or whenever RPR believes Work should be uncovered for observation, or requires special testing, inspection, or approval;
  - 4) monitor that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof;
  - 5) and observe, record and report to Engineer appropriate details relative to the test procedures and startups; and (vi) accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Engineer.
- f. Interpretation of Contract Documents: Inform Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
- g. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and provide recommendations to Engineer; transmit to Contractor the decisions issued by Engineer.
- h. Records:
- 1) Maintain at the site files for correspondence, conference records, Submittals including Shop Drawings and Samples, reproductions of original Contract Documents including all Addenda, the signed Agreement, Written Amendments, Work Change Directives, Change Orders, Field Orders, additional Drawings issued after the Effective Date of the Agreement, Engineer's written clarifications and interpretations, progress reports, and other Project related documents;
  - 2) keep a diary or log book recording pertinent site conditions, activities, decisions and events.
- i. Reports:

- 1) Furnish Engineer periodic reports of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Submittals submissions;
  - 2) consult with Engineer in advance of scheduled major tests, inspections or start of important phases of the Work; and
  - 3) assist in drafting proposed Change Orders, Work Change Directives, and Field Orders, obtain backup material from Contractor as appropriate.
- j. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.
- k. Certificates, Maintenance and Operation Manuals, Record Documents, and Site Records: During the course of the Work, monitor that these documents and other data required to be assembled, maintained, and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to Engineer for review and forwarding to Owner prior to final payment for the Work.
- l. Substantial Completion:
- 1) Conduct an inspection in the company of Engineer, Owner, and Contractor and prepare a list of items to be completed or corrected;
  - 2) submit to Engineer a list of observed items requiring completion or correction.
- m. Completion:
- 1) Conduct final inspection in the company of Engineer, Owner and Contractor; and
  - 2) notify Contractor and Engineer in writing of all particulars in which this inspection reveals that the Work is incomplete or defective; and
  - 3) observe that all items on final list have been completed, corrected, or accepted by Owner and make recommendations to Engineer concerning acceptance.
2. Limitations of Authority:
- a. Resident Project Representative will not:
    - b. have authority to authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by Engineer; or

- c. undertake any of the responsibilities of Contractor, Subcontractors or Contractor's superintendent; or
- d. authorize OWNER to occupy the Project in whole or in part;
- e. participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Engineer.

SC-10.04 Supplement Paragraph 10.04 with the following provisions:

- F. Any differences or conflicts in regard to their work that may arise between the Contractor under this contract and other Contractors performing work for the Owner shall be adjusted and determined by the Project Engineer/Project Manager:

## **ARTICLE 11—CHANGES TO THE CONTRACT**

### **11.03 *Work Change Directive***

SC-11.03 Add the following new paragraphs immediately after Paragraph 11.03B:

- c. General Contractor is not allowed to add mark up for profit and overhead on items paid out of the Work Change allowance. The allowance is part of the contract and not a change order.

### **11.07 *Change of Contract Price***

SC-11.07 Delete Paragraph 11.07.C.2.c in its entirety and insert the following in its place:

- c. Sub-contractor markup for profit and overhead shall be limited to a total of ten per cent on all cost changes, all sub levels added together. General Contractor limit plus sub-contractor mark up for profit and overhead shall be limited to a total of fifteen per cent.

## **ARTICLE 12—CLAIMS**

### **12.01 *Claims***

SC-12.01 Amend the first sentence of Paragraph 12.01.B:

*Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 3010 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 3010 days of the decision under appeal.

## **ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK**

### **13.01 *Cost of the Work***

SC-13.01 Supplement Paragraph 13.01.B with the following paragraphs:

6. The Contractor shall pay for all domestic water (construction office use, etc.) required during the construction project. The Contractor shall pay for all costs including meter deposit and all construction costs required for the installation thereof. Application for water service shall be made to the Revenue Services Division, City Hall, 212 SW 9<sup>th</sup> Street, Lawton, Oklahoma.

The Contractor shall not pay for water necessary for the construction project such as for grassing, filling and testing of water mains and other construction related uses as approved by the Project Manager. The Contractor shall pay a deposit (\$1580.00) for a construction meter (fire hydrant type) with backflow preventor for water needed for other than domestic usage. This deposit and meter pick-up shall be arranged first through the Fire Department at Central Fire Station, 623 SW D Ave. and then the Revenue Services Division, City Hall, 212 SW 9<sup>th</sup> Street, Lawton, Oklahoma. The meter and backflow preventor shall be returned upon completion of the project and a deposit refund made.

7. No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract, or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

### 13.03 *Unit Price Work*

SC-13.03 Supplement Paragraph 13.03.E with the following paragraph:

4. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:
  - a. Unit bid prices previously approved.
  - b. The actual cost of: Labor, including foreman; Materials entering permanently into the work; The ownership or rental cost of construction plant and equipment during the time of use on the extra work; The ownership or rental cost of construction plant and equipment during the time of use on the extra work; Power and consumable supplies for the operations of power equipment; Insurance; Social Security and old age and unemployment contributions. To the cost under b, there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses. When work is performed under the terms of b, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.

5. No claim for extra costs or cost shall be allowed unless the same was done in pursuance of a written order of the Project Engineer/Project Manager approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done.

SC-13.03 Supplement Paragraph 13.03 with the following provisions:

- F. Before undertaking each part of the work, the Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The Contractor shall promptly report in writing to Project Engineer/Project Manager any conflict, error or discrepancy which the Contractor may discover and shall obtain a written interpretation or clarification from the Project Engineer/Project Manager before proceeding with any work affected thereby; however, the Contractor shall not be liable to the Owner or Project Engineer/Project Manager for failure to report any conflict, error or discrepancy in the Contract Documents, unless the Contractor had actual knowledge thereof or should reasonably have known thereof.
- G. Any work performed which is governed by conflicting details, dimensions, or specifications and is performed without clarification by the Project Engineer/Project Manager shall be at the sole risk of the Contractor.
- H. No extra charge or compensation in excess of actual quantities required will be allowed because of differences between actual dimensions and the dimensions shown on the drawings.
- I. The Contractor shall be responsible for familiarizing himself with surface and sub- surface conditions. The base bid, as shown in the proposal, shall include cost for excavation of rock and backfill with suitable compacted material, dewatering, stabilizing or removal/replacement of unsuitable soils such as quicksand or other unsuitable materials, or any hazard that may be encountered.

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

##### *14.02 Tests, Inspections, and Approvals*

SC-14.02 Supplement Paragraph 14.02 with the following provisions:

- G. The cost for obtaining and providing molds and casting of the concrete test cylinders shall be paid for by the Contractor.

#### **ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD**

##### *15.01 Progress Payments*



SC-15.01 Supplement Paragraph 15.01.B with the following paragraph:

5. All material and work covered by partial payments made shall thereupon become the sole property of the Owner. This provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all the terms of the contract. Before partial payments are made for materials, the materials will have to be delivered to a warehouse or an area on the site or within close proximity to the site, as approved by the Owner and Engineer, and should be segregated, labeled, and bonded and insured.
6. The Contractor shall pay,
  - a. for all transportation and utility services not later than the 20th day of the calendar month following that in which services are rendered,
  - b. for all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which said materials, tools, equipment are delivered at the site of the project, and the balance of the cost thereof, not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used, and
  - c. to each of his Subcontractors, not later than the 5th day following each payment to the Contractor the respective amounts allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

SC-15.03 Supplement Paragraph 15.03.A with the following paragraph:

Prior to requesting a certificate of Substantial Completion, and allowing occupancy of the facilities, Contractor shall provide an inspection by a state industrial safety representative or a federal or state (OSHA) representative qualified in the construction type being inspected, to determine that the facilities provided are in compliance with the state and federal safety requirements. Signed copies of the inspection reports shall be submitted to the Engineer for Owner's files. Violations or deficiencies noted therein shall be resolved prior to occupancy of the facilities and before final payment will be made.

## **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

SC-16.01 Supplement Paragraph 9.11 with the following provisions:

- B. Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

16.02 *Owner May Terminate for Cause*

SC-16.02 Delete Paragraph 16.02.B in its entirety and insert the following in its place:

In the event that any of the provisions of this contract are violated by the Contractor, or by any of his Subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate the contract. Such notices shall contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Contractor; and the Surety shall have the right to take over and perform the contract. If the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract at the expense of the Contractor. The Contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby.

## **ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES**

17.01 *Methods and Procedures*

SC-17.01 Supplement Paragraph 17.01 by adding Paragraph 17.01.C as follows:

- C. *Mediation:* All appealed or unsettled claims, disputes, or other matters between Owner and Contractor arising out of or relating to the Contract Documents or the breach thereof, (except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 15.07) shall first be submitted to mediation by the Oklahoma Mediation Service under the Construction Industry Mediation Rules of the American Arbitration Association then obtaining prior to either of them exercising any rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute. Mediation costs shall be shared equally by the Contractor and Owner. Should the mediation be unsuccessful, (except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 15.07) and is terminated by written notice to all involved by Mediator or Owner or Contractor, the dispute resolution process

shall revert to paragraph 10.06 in the General Conditions, as if the mediation had been a second phase of the unsuccessful executive negotiation. Notice of demand for mediation shall be filed in writing with the other party to the Agreement and with the Oklahoma Mediation Service with a copy to the Engineer for information. Any demand for mediation of any appealed or unsettled claim, dispute, or other matter that is required to be referred to Engineer initially for decision in accordance with paragraph 10.06 shall be filed by the appealing party within 10 days after the executive negotiation has been declared unsuccessful by the Owner or Contractor, and in all other cases within a reasonable time after the unsettled claim, dispute, or other matter has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such unsettled claim, dispute, or other matter would be barred by the applicable statute of limitations. Failure to demand mediation within said 10-day period will result in Engineer's decision being final.

## **ARTICLE 18—MISCELLANEOUS**

### *18.04 Limitation of Damages*

*SC-18.04* Supplement Paragraph 18.04 with the following Paragraph 18.04.B:

- B. Contractors, Subcontractors, Suppliers and others on the Project, or their sureties, shall maintain no direct action against the Engineer, its officers, employees, affiliated corporations, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the Owner will be the beneficiary of any undertaking by the Engineer.

### *18.07 Controlling Law*

*SC-18.07* Supplement Paragraph 18.07 with the following provisions:

- B. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If, through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
- C. Certification of Compliance with Air and Water Acts (Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000):

During the performance of this contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 14, as amended.

In addition to the foregoing instruments, all nonexempt Contractors and Subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or Subcontractor, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility, utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

### BIDDER'S AMERICAN IRON AND STEEL CERTIFICATION

This is a certification that I, the bidder, \_\_\_\_\_ (Name and Title) of \_\_\_\_\_ (Company Name, Partnership, LLC, Inc., etc.) hereby certify and is aware that none of the funds appropriated or otherwise made available by the Safe Drinking Water Act, Section 1452(a)(4), requiring that all iron and steel products used for a project for the construction, alternation, maintenance or repair of a public water system are produced in the United States.”

The Bidder is aware that all iron and steel products used for this project must be produced in the United States per Section 1452(a)(4) of the Safe Drinking Water Act, and incorporated into this project \_\_\_\_\_ (Insert Name of Project), DWSRF Project #: P40- \_\_\_\_\_ (Insert DWSRF Project Number), and furthermore certifies as follows.

1. The bidder understands the term “iron and steel products” applies to all projects for the construction, alteration, maintenance, or repair of publically owned treatment works or public water systems.
2. The bidder understands the term “iron and steel products” refers to the following products made primarily of iron or steel, lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Additional information, including any published waivers, is posted on the EPA Website, <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>
3. The bidder further states that this requirement applies to all portions of the project that are subcontracted.
4. This “Bidder’s American Iron and Steel Certification” is to be submitted by Bidder as a part of this bid and proposal.
5. Iron and steel of unknown origin are considered to have been produced or manufactured outside the United States.
6. Identification of American-produced Iron and Steel Goods: Consistent with the terms of the Owner’s bid solicitation and the provisions of Use of American Iron and Steel Section 1452(a)(4) of the Safe Drinking Water Act, the Bidder certifies that this bid reflects the Bidder’s best, good faith effort to identify domestic sources of iron and steel goods in the bid solicitation where such American-made goods are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.
7. Verification of U.S. Production: The bidder certifies that all iron and steel products contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the Bidder agrees that it will provide reasonable, sufficient, and timely verification to the Owner of the U.S. production of each component so identified.
8. Documentation Regarding Non-American-made Iron and Steel Goods: The Bidder certifies that for any iron and steel products that are not American-made and are so identified in this bid, the Bidder has included in or attached to this bid one or both of the following, as applicable:
9. Identification of and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such component or components, and an analysis that supports its applicability to the component or components; If the Administrator of the Environmental Protection Agency (EPA) receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the

request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Website of the Environmental Protection Agency.

10. Verifiable documentation sufficient to the Owner, as required in the bid solicitation or otherwise, that the Bidder has sought to secure American-produced goods but has determined that such goods are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the Bidder under the applicable conditions stated in the bid solicitation or otherwise.
11. Information and Detailed Justification Regarding Non-American-produced Iron and Steel Goods: The Bidder certifies that for any such product or products that are not so available, the Bidder has also provided in or attached to this bid certification, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-produced iron and steel goods, that the Bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for a waiver under Use of American Iron and Steel with respect to such product or products.
12. If use of a noncompliant iron and/or steel product is permanently incorporated into a project, one or more of the following can occur: 1) Request a waiver where appropriate. 2) Require the removal of the non-domestic item. 3) Payment for all or part of the project will be withheld.
13. The Bidder further agrees that, if this bid is accepted, it will assist the Owner in amending, supplementing, or further supporting such information as required by the Owner to request and, as applicable, implement the terms of a waiver with respect to any such product or products. The EPA strongly recommends the use of a step certification, similar to the one used by the Federal Highway Administration. The final manufacturer can also certify that the manufacturing process occurred in the United States.

\_\_\_\_\_  
Name of Construction Company

Signed \_\_\_\_\_  
Signature of Authorized Official

By \_\_\_\_\_  
Type Name of Authorized Official

Title \_\_\_\_\_  
Title of Authorized Official

Oklahoma Drinking Water State Revolving Fund  
**CLAIM OR INVOICE AFFIDAVIT**

STATE OF \_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_ )

The undersigned (contractor or supervisory official), certifies that this (invoice, claim or contract) is true and correct. Affiant further states the work, services or materials as shown by this invoice or claim have been completed or supplied in accordance with the plans, specifications, orders, or requests furnished to the affiant. Affiant further states that (s)he has made no payment, given, donated or agreed to pay, give or donate either directly or indirectly, to any elected official, officer, or employee of the State of Oklahoma, of money or any other thing of value to obtain payment or the award of this contract.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

[www.SAM.gov](http://www.SAM.gov)

INSERT CURRENT WAGE DECISIONS THAT APPLY TO THE  
CONSTRUCTION PROJECT HERE  
IN CONTRACT SPECIFICATIONS

See Requirements in DW-185

DAVIS-BACON WAGE DECISION

(Reproduce on green colored paper)



Superseded General Decision Number: OK20230023

State: Oklahoma

Construction Type: Heavy

County: Comanche County in Oklahoma.

HEAVY CONSTRUCTION PROJECTS (including sewer/water line construction; heavy construction projects on treatment plants and industrial sites) (excludes heavy dredging and water well drilling)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 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 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

0 01/05/2024  
 1 04/05/2024  
 2 07/05/2024  
 3 08/16/2024

\* ELEC1002-005 06/30/2024

	Rates	Fringes
ELECTRICIAN.....	\$ 46.38	29.5%+8.50

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 ENGI0627-013 06/01/2023

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Group 1.....	\$ 35.65	16.50
Group 2.....	\$ 33.80	16.50
Group 3.....	\$ 33.10	16.50
Group 4.....	\$ 31.95	16.50
Group 6.....	\$ 28.90	16.50
Group10.....	\$ 25.45	16.50

POWER EQUIPMENT OPERATOR

GROUP 1: All Crane Type Equipment 200 ton and larger and including 400 ton capacity cranes. All Tower Cranes.

GROUP 2: All Crane Type Equipment 100 ton capacity and larger cranes, and less than 200 ton capacity.

GROUP 3: All Crane Type Equipment 50 ton capacity and larger cranes, and less than 100 ton capacity. Crane Equipment (as rated by mfg.) 3 cu. yd. and over Guy derrick Whirley Power Driven Hole Digger (with 30' and longer mast).

GROUP 4: CRANES with Boom Incl. Jib less than 100 ft and less than 3 cu. Yd.; Overhead Monorail Crane; Excavator , Backhoe and Grader/Blade

GROUP 6: Roller(Asphalt and Dirt)

GROUP 10:Oiler

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 IRON0048-005 06/01/2021

	Rates	Fringes
IRONWORKER (Structural, Reinforcing, and Ornamental).....	\$ 29.00	16.20

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 PLAS0518-010 03/01/2024

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 32.22	15.59

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 TEAM0516-005 06/03/2024

	Rates	Fringes
TRUCK DRIVER		
(3) Dump Truck.....	\$ 29.90	16.57

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 \* SUOK2012-001 05/18/2012

	Rates	Fringes
FORM WORKER.....	\$ 11.77 **	0.00
LABORER: Common or General.....	\$ 11.81 **	1.09
LABORER: Pipelayer.....	\$ 11.13 **	0.00
OPERATOR: Drill.....	\$ 17.15 **	0.78
OPERATOR: Loader (Front End)....	\$ 13.51 **	0.00
OPERATOR: Mechanic.....	\$ 19.61	9.39
OPERATOR: Scraper.....	\$ 16.00 **	1.55
OPERATOR: Trackhoe.....	\$ 17.50	2.78

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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>.

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)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical

order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

#### State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that

the prevailing wage rate set by a state (or local) government was 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. 01/03/2024 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.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

Oklahoma Drinking Water State Revolving Fund  
**LABOR STANDARDS CERTIFICATE FOR BIDDING**

I certify that all the Davis Bacon Act and Labor Standards Contract Provisions of the specifications will be complied with during construction of the drinking water treatment works known as Drinking Water State Revolving Fund Project Number P40-\_\_\_\_\_

I also certify that all laborers and mechanics employed by me and my subcontractors during construction of the project will be paid wages at rates not less than those listed on the prevailing wage rates contained in the contract documents.

Project Description:

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\_\_\_\_\_  
Printed Name of Contractor's Authorized Representative

\_\_\_\_\_  
Signature of Contractor's Authorized Representative

\_\_\_\_\_  
Date

Oklahoma Drinking Water State Revolving Fund  
**LABOR STANDARDS CERTIFICATE FOR PROJECT CLOSE-OUT**

I certify that all the Davis Bacon Act and Labor Standards Contract Provisions of the specifications have been fully complied with during construction of the drinking water treatment works known as Drinking Water State Revolving Fund Project Number \_\_\_\_\_.

Project Description:

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\_\_\_\_\_  
Printed Name of Contractor's Authorized Representative

\_\_\_\_\_  
Signature of Contractor's Authorized Representative

\_\_\_\_\_  
Date



# **TECHNICAL SPECIFICATIONS**

**INDEX**  
**FOR**  
**TECHNICAL SPECIFICATIONS**

<b>SECTION 0100</b>	<b>STREET AND DRAINAGE CONSTRUCTION</b>
<b>SECTION 0200</b>	<b>WATER LINE CONSTRUCTION</b>
<b>SECTION 0400</b>	<b>BORING AND ENCASEMENT</b>
<b>SECTION 0500</b>	<b>GRASSING</b>
<b>SECTION 0600</b>	<b>CONSTRUCTION SIGNING, BARRICADES AND LIGHTS</b>
<b>SECTION 0700</b>	<b>SUBMITTALS</b>
<b>SECTION 0800</b>	<b>PROJECT MANAGEMENT</b>

**TECHNICAL SPECIFICATIONS**

**SECTION 0100**

**STREET AND DRAINAGE CONSTRUCTION**

## **SECTION 0118**

### **SUBGRADE TREATMENT**

#### **Description**

The work covered by this section is as described in Section 307.01 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, current Edition, or the latest edition thereof. All grading and related operations shall be included in this section. The percentage of lime required, and the layer thickness shall be as shown on the plans.

#### **Materials**

The materials used in the execution of the work covered by this section shall be as noted in Section 307.02 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition, or the latest edition thereof. All lime shall be quick lime unless authorized by the Engineer.

#### **Construction Methods**

The construction methods used to execute the work covered by this section shall be in accordance with Section 307.04 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, current Edition, or the latest edition thereof.

## **SECTION 0120**

### **TRAFFIC SIGNS**

#### **Description**

The work covered by this section is as described in Section 850.01 and 851.01 of the Standard Specifications of the Oklahoma Department of Transportation, 1999 Edition, or the latest edition thereof. All sign hardware and concrete for sign footings shall be included in this section.

#### **Materials**

The materials used in the execution of the work covered by this section shall be as noted in Section 850.02 or Section 851.02 of the Standard Specifications of the Oklahoma Department of Transportation, 1999 Edition, or the latest edition thereof. All posts shall be 2" Square 12 Gage Perforated tubing and of such a length to provide 7' clearance between the bottom of the sign and the ground line.

#### **Construction Methods**

The construction methods used to execute the work covered by this section shall be in accordance with Section 850.04 and 851.04 of the Standard Specifications of the Oklahoma Department of Transportation, 1999 Edition, or the latest edition thereof. All Traffic signs remove shall be maintained in good condition and reinstalled at no cost. Any traffic device damage will be replaced at no cost.

**TECHNICAL SPECIFICATIONS**

**SECTION 0200**

**WATER LINE CONSTRUCTION**

## SECTION 0201

### WATER LINE CONSTRUCTION

#### I. GENERAL:

All potable water mains shall be constructed of ductile-iron materials, or polyvinyl-chloride (PVC) materials. All construction materials and procedures shall conform to Oklahoma State Department of Environmental Quality (ODEQ) requirements, Midwest City Municipal Authority standard details, the construction drawings, and the following specifications. All standard specifications referred to shall be the latest edition in effect at the time construction begins.

#### II. MATERIALS:

1. DUCTILE IRON PIPE: Ductile-iron pipe shall be manufactured in the United States of America in accordance with AWWA C151 (ANSI A21.51). The pressure rating, thickness class, net weight of pipe without lining, length of pipe and name of manufacturer shall be clearly marked on each joint of pipe.

##### 1.1 JOINTS:

1.1.1 BURIED JOINTS: Shall be push-on, mechanical, or restrained in accordance with AWWA C111.

1.1.2 ABOVE GROUND JOINTS: Shall be flanged in accordance with AWWA C110.

1.1.3 JOINT GASKETS: Shall comply with AWWA C111 (ANSIA21.11).

##### 1.2 COATINGS:

1.2.1 INSIDE: All ductile-iron pipe shall be internally lined with Cement-mortar in accordance with AWWA C104 (ANSIA21.4).

1.2.2 OUTSIDE: All ductile-iron pipe shall be coated externally with a bituminous coating or coal tar primer approximately 1 mil thick. The finished coating shall be continuous and smooth.

##### 1.3 THICKNESS CLASS:

1.3.1 Ductile-Iron Pipe: The thickness class for ductile iron pipe shall be Class 50 for underground pipe and Class 52 for aboveground pipe unless specified differently elsewhere in these specifications or on the construction drawings.

2. POLYVINYL-CHLORIDE (PVC) PIPE: PVC pipe shall be manufactured in accordance with AWWA C900 for pipe sizes for pipe sizes up to 24". Each joint of pipe shall be clearly marked with the nominal size and O.D. base, material code designation, dimension ratio number, AWWA pressure class and designation number, manufacturer's name or trademark and production code, and seal of the testing agency verifying the suitability of the pipe material for potable water service.

2.1 JOINTS:

2.1.1 BURIED JOINTS: All pipe joints shall be push-on.

2.1.2 JOINT GASKETS: Shall be elastomeric and comply with ASTM F477.

2.2 THICKNESS CLASS:

2.2.1 PVC PIPE: The thickness class for PVC pipe shall be DR-18 unless specified differently elsewhere in these specifications or on the construction drawings. PVC pipe shall not be used for above ground installations.

3. FITTINGS:

3.1 DUCTILE-IRON COMPACT FITTINGS: All fittings shall be ductile-iron compact fittings and shall comply with AWWA C153. All mechanical joint fittings through 24" Dia. pipe shall be Class 350. Mechanical joint fittings for larger than 24" Dia. pipe and all flanged fittings shall be Class 250. All fittings shall have the same inside and outside coatings as ductile-iron pipe. Join pipe and fittings in accordance with manufacturer's instructions, unless otherwise shown or specified.

4. MECHANICAL JOINT RESTRAINTS:

4.1 DESIGN/MATERIAL

The mechanical joint restraints shall be designed so that the wedges and wedge actuating components are incorporated into the design of the follower gland. It shall consist of individually activated wedges that increase their resistance to pullout as pressure or external forces increase. These wedges must be mechanically retained. "Set Screw" designs are not acceptable.

The mechanical joint restraints shall be made from grade 65-45-12 ductile iron material in accordance with ASTM A536. The wedges shall be heat treated to a minimum hardness of 370 BHN.

The mechanical joint restraints shall be designed with torque-limiting twist-off nuts to assure proper actuation of the restraining wedges. Once the twist-off nut is removed it will expose a bolt head of proper size to loosen and remove the joint restraint if conditions require its removal or repositioning. This bolt head must be capable of accommodating a six-point socket for loosening and tightening.



Chemical and nodularity test shall be performed as recommended by the Ductile Iron Society, on a per ladle basis.

The mechanical joint restraints for ductile iron pipe must have dimensions and thicknesses equal to or greater than the EBAA Iron Megalug 1100 series. The mechanical joint restraints for PVC must have dimensions and thicknesses equal to or greater than the EBAA Iron Megalug 2000 PVC series.

#### 4.2 TRACEABILITY

An identification number consisting of year, day, plant and shift (YYDDD) (plant designation) (shift number), shall be cast into each gland body. All physical and chemical test results shall be recorded such that they can be accessed via the identification number on the casting. These Material Traceability Records are to be made available, in hard copy, to the purchaser that requests such documentation and submits his/her gland body identification number.

#### 4.3 COATING

All wedge assemblies and related parts shall be processed through a phosphate wash, rinse and drying operation prior to coating application. The coating shall consist of a minimum of two coats of liquid Xylan fluoropolymer with heat cure to follow each coat.

All casting bodies shall be surface pretreated with a phosphate wash, rinse, and sealer before drying. The coating shall be electrostatically applied, and heat cured. The coating shall be a polyester based powder to provide corrosion, impact, and UV protection. Requests for approved equal must submit coating material and process details for review prior to bid.

#### 4.4 APPROVALS

Mechanical joint restraint devices for ductile iron pipe shall be listed by Underwriters Laboratories (3" through 24") and approved by Factory Mutual (3" through 12")

Mechanical joint restraint devices for PVC pipe shall be listed by Underwriters Laboratories and approved by Factory Mutual (4" through 12"). The sizes 4" through 24" shall meet or exceed the requirements of ASTM F1674 of the latest revision.

Mechanical joint restraints for ductile iron pipe shall be Megalug Series 1100, and/or for PVC shall be Megalug Series 2000 produced by EBAA Iron Inc. or approved equal. The City Engineer shall be the sole authority in determining acceptability of all products.

5. **POLYETHYLENE ENCASEMENT:** Polyethylene used to wrap pipe, fittings, and other appurtenances shall be manufactured in accordance with AWWA C105 (ANSI A21.5).
6. **RESILIENT-SEATED GATE VALVES:** All gate valves furnished shall be manufactured by Mueller, American-Darling, U.S. Pipe, Clow, M&H or Kennedy. The valves shall conform to AWWA C509, except where modified by the following specifications:
  - 6.1 **JOINTS:** Valves to be hub end, mechanical joint unless specified differently on the plans. The dimensions of sockets for hub-end and mechanical-joint valves shall conform to the dimensions of AWWA Standard Specifications for Special Casting not lighter than Class B, and in any case, shall have an inside diameter not less than 0.80 inches larger than the outside diameter of the pipe connected therewith.
  - 6.2 **STEM:** The valve stem shall be non-rising. The stem seal shall be comprised of one "O" ring above and one "O" ring below the thrust collar forming a lubricant reservoir between to isolate and lubricate the thrust collar and thrust collar bearing surfaces. The thrust collar shall be secured in a machined recess in the top of the bonnet so replacement of the stem can be made without bonnet removal.
  - 6.3 **OPERATING NUT:** The operating nut shall be left-hand opening (counter-clockwise) and shall be painted black.
  - 6.4 **DISC:** The valve disc shall be fully epoxy coated with the rubber seat attached to the disc by self-setting stainless steel set screws or shall be fully rubber encapsulated. The disc shall be constructed in such a manner as to eliminate the collection of corrosive material in the center of the disc cavity.
  - 6.5 **FLANGES:** All flanges for flanged-end valves shall conform to the American Class 125 standard.
  - 6.6 **INTERIOR COATINGS:** All internal ferrous metal surfaces (machined or cast) shall be factory epoxy coated with an epoxy material approved by the Food and Drug Administration.
7. **BUTTERFLY VALVES:** All butterfly valves shall be designed for buried operation. Valves shall conform to AWWA C504 and be Class 150B unless specified differently elsewhere in these specifications or on the construction drawings.
  - 7.1 **BODY, DISC & SHAFT:** Butterfly valves shall have cast iron or ductile iron bodies, alloy cast iron or ductile iron discs, and one piece stainless steel shafts extending full size through the valve disc and bearings.
  - 7.2 **SEATS:** Valve seats shall be constructed of Buna-N and bonded or mechanically retained to the valve body or to the body or disc. Ring type rubber seats not mechanically fitted to the body or disc will not be acceptable. Seals mounted on the disc shall be designed with a shoulder providing 360° mechanical retention

against the seat pulling out from between the retaining ring and disc. The clamp ring cap screws shall pass through the rubber seat for added retention.

- 7.3 JOINTS: Valves shall have mechanical or flanged ends. Flange gaskets, if used, will be red rubber.
- 7.4 SHAFT SEAL & BEARINGS: Shaft seals shall be self-adjusting Chevron type seals. Bearings shall be of one piece and completely retained in hubs cast integral with the body.
- 7.5 OPERATOR: Operators shall be capable of being earth covered and shall be fully gasketed and grease packed and designed to withstand submersion in water to at least ten (10) psi. The operator shall be standard traveling-nut type, manual operation, turning counter-clockwise to open, requiring a minimum of 30 turns to move from fully open to fully closed. Buried operators shall be equipped with valve boxes containing a valve position indicator showing direction to open.
8. TAPPING SLEEVES AND VALVES: Tapping sleeves and valves shall be manufactured by Powerseal, Mueller, American-Darling, Kennedy, U.S. Pipe or approved equal. All taps shall be at least two (2") inches smaller than the mainline pipe diameter. Taps shall not be allowed on pipe with diameters twelve inches (12") and smaller. The Engineer and Water Superintendent may approve a saddle installation for pipe twelve inches (12") and smaller at a location where health or safety concerns are present.
- 8.1 Ductile-iron tapping sleeves (all sizes) shall be heavy duty, bolted type using cadmium plated iron bolts, etc. Restrained mechanical joint type shall be used for all sizes.
- Stainless steel tapping sleeves (all sizes) shall be 304 stainless steel, full wrap around type with stainless steel bolts, etc. Restrained mechanical joint type (equal to PowerSeal 3480MJ-SS or 3490MJ-SS) shall be used for pipe sizes 36" and below, and flanged type (equal to PowerSeal 3480AS or 3490AS) for pipe sizes over 36".
- Epoxy coated steel tapping sleeves (for pipe larger than 24") shall be 150 psi working pressure, stainless steel nuts and bolts, anode protection, sand backfill and 12 mil thickness of fusion bonded epoxy coating (interior/exterior). Restrained mechanical joint type shall be used for pipe sizes thru 36" and flanged type for pipe sizes larger than 36" .
- All tapping sleeves shall be wrapped with polyethylene. All tapping sleeves and valves shall have poured concrete blocking.
- 8.2 VALVE ENDS: Valve ends for restrained mechanical joint type sleeves shall be standard mechanical joint. Valve inlet ends for flanged type sleeves shall be flanged with centering lip on the valve flange to fit recess or counter bore on the

outlet tapping sleeve flange. The valve outlet end for flanged type sleeves shall be a standard mechanical joint end.

9. VALVE BOXES: All valve boxes shall be constructed of a piece of DR21 or thicker PVC piping, or a cast iron manufactured valve box approved by the engineer, and a two (2) piece cast iron type top. The cast-iron cover shall have the word "WATER" cast in the top. The cast-iron parts of the boxes shall be constructed of materials meeting the requirements of ASTM A 48 and shall be coated by dipping in hot bituminous base material such as used for pipe dip and shall be Sigma #VB-165 or approved equal.
10. FIRE HYDRANTS: Fire hydrants shall be manufactured in accordance with AWWA C502. The only fire hydrants acceptable are the U.S. Pipe Metropolitan 250, Mueller Centurion 250 and Clow Medallion. The hydrants shall be designed for a minimum of 150 psi working pressure or 300 psi hydrostatic test pressure and shall conform to AWWA C502. Hydrant valve shall be a minimum of 5-1/4" diameter.
  - 10.1 CONNECTIONS: The fire hydrant base shall have a 6" mechanical joint connection. Hose connections shall consist of two 2-1/2" streamers and one 4-1/2" pumper. The 2-1/2" outlets shall have a 60° V-threads, 7-1/2 threads per inch, and the outside diameter of the external threads shall be 3-1/16". The 4-1/2" outlet shall have 4 threads per inch, and the outside diameter of the external threads shall be 5-3/4". All hose connections shall have National Standard threads.
  - 10.2 PAINTING: Hydrants shall be painted with primer and finish coats of fire hydrant red paint per AWWA C-502.
  - 10.3 OPERATING UNIT: The operating nut shall be 1-1/2" pentagon shape and shall open counter-clockwise.
11. INDIVIDUAL SERVICE MATERIALS: Water service installations are governed by Midwest City Municipal Authority City Code, and specifications have been prepared by the City Engineer. The contractor shall follow these specifications in this work.
12. AUTOMATIC FLUSHING DEVICES: Automatic flushing devices and components shall be in conformance with NSF/ANSI 372 standards. Automatic flushing devices shall be Kupfrele Eclipse Model #9800, Mueller Hydro-Guard Series 200 Cold, or approved equal. Valve assembly shall be housed in a rectangular enclosure and each unit shall be self-draining, and non-freezing.
  - 12.1 CONNECTIONS: Automatic flushing device shall have a 2" stainless steel MIP inlet that will lead vertically to the bottom of a 2" automatic flushing valve. The flushing valve shall control the flow of water through the hydrant and its diaphragm with the extension and retraction of a DC latching solenoid and have a minimum of 200 PSI rating. Each unit shall be furnished with a stand-alone valve controller.

- 12.2 CONTROLLER: Contractor to furnish a digital programable or Bluetooth controller. The valve controller will not require a second hand-held device for programming.

### III. CERTIFICATION:

The Contractor shall furnish the City Engineer an affidavit from the materials manufacturers to the effect that all inspections and tests as required in the standard specifications have been made and that the results thereof meet the requirements of the specifications. Reports of test results shall be furnished when requested.

### IV. PIPELAYING:

1. DUCTILE-IRON PIPE: Pipelaying shall be in accordance with AWWA C600. Minimum bedding shall be Type 1, as described in AWWA C150 (ANSI A21.50). All ductile-iron pipe and appurtenances, such as fittings, fire hydrants, valves, tapping saddles, etc., shall be completely wrapped with a polyethylene encasement in accordance with AWWA C105 (ANSI A21.5).
2. PVC PIPE: Pipelaying shall be in accordance with AWWA C605. Since PVC pipe deteriorates rapidly when exposed to ultra-violet radiation, all PVC material must be stored in a manner that does not expose it to direct sunlight. During backfill of PVC pipe, the contractor shall place a locator wire along with the pipe. The wire is to be placed continuously throughout the extent of the pipeline. Wire shall be copper 12 AWG single conductor type THHN or THWN. All field splices shall be in waterproof couplings for underground installations. Wire shall extend up into valve boxes and other access points as directed by the Engineer. Cost of locator wire shall be included with the price bid for pipe. All cast-iron and ductile-iron appurtenances, such as fittings, fire hydrants, valves, tapping saddles, etc., shall be completely wrapped with a polyethylene encasement in accordance with AWWA C105 (ANSI A21.5).

### V. FIELD TESTING & DISINFECTION:

All testing procedures required as outlined in these specifications or on the construction drawings shall be performed by the Contractor. The date and time of the testing shall be coordinated with the Water Distribution. **Order of Testing on Pipe projects: Disinfection of line, CL2 test at time of loading and 24 hours later, Flushing, Two consecutive days of passing Bacteria testing, and then pressured testing. Final connections can only then be made.**

1. HYDROSTATIC TESTING: Hydrostatic pressure and leakage tests shall be made at 150 psi based on the elevation of the lowest point in the section under test and corrected to the elevation of the test gauge. Allowable leakage shall not exceed 10 gallons per inch of pipe diameter per mile of pipe per 24 hours. Tests shall be performed in accordance with AWWA C600.

2. BACTERIA TESTING: After the potable water facilities are disinfected (disinfecting procedures are covered in Section VIII of these specifications), the Contractor shall be responsible for the successful completion of all bacteria and chlorine residual tests required by the Oklahoma State Department of Environmental Quality. The local Chief Sanitarian shall be contacted to determine the appropriate procedures in use for these tests at the time of construction.

VI. TRENCH EXCAVATION, BACKFILL, AND COMPACTION:

1. EXCAVATION: All excavation shall be open cut unless otherwise approved by the City Engineer. The sides of the trenches shall be as nearly vertical as soil conditions permit and construction workers shall be protected from cave-ins by appropriate sheeting or shoring. Worker protection shall comply with the Occupational Safety and Health Administration Regulations in effect at the time of construction. The maximum length of trench to be opened at one time is the amount that can be accommodated in one working day by the Contractor. If the Contractor excavates more trench than what he can install pipe in by the end of the working day, the excess length of trench must be backfilled prior to the Contractor leaving the work site for the day. Excavated material shall be placed adjacent to the trench a sufficient distance from the edge of the trench to prevent slides or cave-ins. All material that is not suitable for backfill shall be removed from the construction area and disposed of properly.

Care shall be taken not to over excavate. If unauthorized over-excavation occurs, the trench shall be brought back to grade with Class I or II material, as described in ASTM D2321, and compacted to a minimum of 90% Standard Proctor Density. Whenever wet or unsuitable soil, incapable of properly supporting the pipe, or rock is encountered in the trench bottom, such material shall be removed to a minimum depth of 6" below the bottom of the pipe and replaced with Class I or II material and compacted as described above.

Unless otherwise required for installation of sheeting or shoring and approved by the City Engineer, the trench's width at the top of pipe elevation shall be a maximum of the pipe's outside diameter plus two (2) feet and a minimum of the pipe's outside diameter plus eight (8) inches. Minimum pipe cover shall be thirty (30) inches.

The trench bottom and/or the pipe bedding shall be accurately graded to provide uniform bearing and support for each section of the pipe along the entire barrel length. Bell holes shall be dug so that the pipe is not supported by the bell. Bell holes shall be large enough to properly join the joints of pipe without getting foreign material in the joint.

Where trenches lie within Portland cement concrete, or asphalt sections of existing streets, alleys, driveways, or sidewalks, etc., such surfaces shall be saw cut before the paving is removed. The cut shall be to a minimum depth of 1-1/2". All sawing shall be to neat, vertical, true lines and performed in such a manner that adjoining surfaces will not be damaged. No excavation will be permitted outside limits of the cuts. Excavated asphalt and concrete surfacing materials shall be hauled from the job immediately and shall not be

used in the backfill. All excavated material not used as backfill shall be removed from the construction site by the Contractor.

Existing utilities shall be located prior to starting the trenching operation and reasonable care shall be exercised to prevent damage to utilities. All existing City-owned and private facilities (including all utilities whether privately or publicly owned) which are damaged during construction shall be repaired at the Contractor's expense.

2. **BACKFILL:** Unless otherwise directed by the City Engineer, backfill may be native trench material except under existing streets, alleys and drives and under proposed streets where backfill to the surfacing level shall be Class I or II materials per ASTM D 2321. Backfill materials shall be free of all organic material or wet or frozen soil. For a minimum distance of 6" above the pipe, backfill shall be crushed lime stone or sand. If in the opinion of the City Engineer, the native trench material is not adequate for backfill, Class I or II material per ASTM D 2321 shall be used as backfill. Backfill material shall be placed as specified in Section VI-3.3, **MINIMUM COMPACTION REQUIREMENTS**, to achieve compaction results specified. The ground surface shall be restored to its original contours, and all existing street, alleys, driveways or sidewalks, etc., that were disturbed, shall be restored in accordance with all Midwest City Municipal Authority ordinances in effect at the time of construction.
3. **COMPACTION:** Depending on characteristics of the backfill material, methods of compaction may be water settlement, hand tamping, or mechanical compaction as described below.
  - 3.1 **WATER SETTLEMENT:** Water settlement shall be accomplished by leveling the fill material, flooding the trench and jetting the material with sufficient water to thoroughly saturate the material and to cause it to settle and fill all voids. All jetting shall be done along the trench and transversely across the trench at intervals not in excess of six feet, with jetting locations on one side of the trench offset to jetting locations on the other side of the trench. The Contractor shall provide capacity to jet at not less than 30 pounds per square inch pressure. After the material has settled, tamping or hydro-hammering shall be performed, if necessary, to secure the required density as defined in Section VI-3.3, **MINIMUM COMPACTION REQUIREMENTS**.
  - 3.2 **MECHANICAL COMPACTION:** Where water settlement is not permitted by the City Engineer or does not result in adequate compaction, backfill material shall be uniformly moistened to optimum moisture content, placed in layers as defined in Section VI-3.3, **MINIMUM COMPACTION REQUIREMENTS**, and compacted with hand and/or mechanical work methods. Equipment used shall be rollers, pneumatic tamps, hydro-hammers or other approved devices which secure uniform and required density without injury to the pipe or related structures.

3.3 MINIMUM COMPACTION REQUIREMENTS:

<u>AREA</u>	<u>STANDARD PROCTOR DENSITY</u>	<u>MAXIMUM HEIGHT OF LIFT</u>
Under any existing or proposed street, curb or gutter	95%	6"
Above and below, any intersecting utilities	95%	6"
Under any existing or proposed asphalt or concrete driveway or parking lot	95%	6"
Under any existing or proposed sidewalk, turfed or seeded lawn	90%	12"
Under all other areas	90%	24"

The actual densities achieved in the field will be determined by AASHTO Designation T205 or T238.

VII. WATER SERVICE INSTALLATION:

When specified elsewhere in these specifications or included on the construction drawings, the Contractor shall install water service to individual properties. Water service installations are governed by Midwest City Municipal Authority City Code and specifications have been prepared by the City Engineer. The Contractor shall follow these specifications in this work.

The location of all service lines crossing under the street shall be marked by placing a "W" in the street curb over the location of the service line on the side of the street opposite the water main. The "W" shall be clearly marked by scribing or stamping the top service of the curb while the concrete is still wet or by chiseling or routing the letter in the curb after the concrete has dried. The letter shall be approximately three (3) inches tall be four (4) inches wide by 1/4 inch deep.

Contractor shall maintain a log of public and private sewer line materials for each address using forms provided on the plans, or if form is absent from plans, using a digital log containing the meter address, coordinates, and meter size. All meter boxes in paved or drivable areas shall be rated to withstand H-20 traffic loading. Service lines are to be replaced to 5 feet beyond new meter boxes. All service line reconnects will receive a new service line, meter box, and meter. Install meters directly on the property line or 15 feet behind the back of curb, whichever is shorter distance from the water main. All long services shall be bored or moled across the roadway. Contractor is not to open cut trench across roadways for service line installations without prior written approval



of the Owner and Engineer. Plug all abandoned service lines with 6-inches of non-shrink grout. Contractor to notify Midwest City Municipal Authority if lead service line material is discovered and Contractor shall replace lead service line to within 5 feet of building foundation. New service lines shall be offset 5 feet from existing service lines to be abandoned. Existing meters and meter boxes shall be removed. All new residential service lines shall be 1-inch C901 HDPE.

**VIII. WATER LINE DISINFECTION:**

The Contractor shall disinfect all water lines, fittings, valves, fire hydrants, and other appurtenances prior to placing the facilities into service. It is recommended that the disinfecting activity be accomplished after the line has been hydrostatically tested. Prior to disinfecting, the Contractor shall flush the line of all foreign materials. Disinfecting shall be accomplished in accordance with AWWA C651. Water entering the new line, etc., for disinfecting shall contain free chlorine with a minimum concentration of 50 mg/l and a maximum concentration of 100 mg/l and shall be allowed to stand for 24 hours. At the end of the 24-hour period, a residual of at least 10 mg/l of free chlorine shall be present. All Oklahoma State Department of Environmental Quality standards and regulations shall be observed. Safe bacteriological samples shall be obtained on two consecutive days before placing the water line into service.

The following table provides the approximate amount of granular calcium hypochlorite (typically 65% free chlorine) needed to produce a concentration of 50 mg/l per 100 feet for common diameters of water line. The Contractor must comply with the requirements of initial flushing after disinfection of the water line.

**Approximate Chlorine (Granular Calcium Hypochlorite)  
Required to Produce 50 mg/l Concentration in 100' (30m) pipe**

<b>Pipe Diameter</b>	<b>Pipe Diameter</b>	<b>100 % Chlorine</b>	<b>65% Chlorine</b>
<b>(inches)</b>	<b>(mm)</b>	<b>(pounds)</b>	<b>(pounds)</b>
4	100	0.027	0.042
6	150	0.061	0.094
8	200	0.108	0.168
12	300	0.240	0.377
16	400	0.436	0.670
24	600	0.875	1.507

**(adapted from Table 6-6, Handbook of Chlorination, Clifford White, 1999)**

When the Contractor chooses to disinfect by introducing a chlorine solution into the water line, the solution shall be fed after initial flushing at a constant rate until the entire water line is filled with highly chlorinated water. The following table provides the approximate amount of 1 % chlorine solution needed to produce a concentration of 50 mg/l per 100 feet for common diameters of water line. 1% chlorine solution requires 1 lb of 65% granular calcium hypochlorite in 8 gal of water, or 1 lb of 100% granular calcium hypochlorite in 12 gal of water.

**Approximate Chlorine (1% Chlorine Solution)  
Required to Produce 50 mg/l Concentration in 100' (30m) of Pipe**

<b>Pipe Diameter (inches)</b>	<b>Pipe Diameter (mm)</b>	<b>One Percent Chlorine Solution (Gallons)</b>	<b>(Liters)</b>
4	100	0.33	1.25
6	150	0.73	2.76
8	200	1.30	4.92
12	300	2.93	10.90
16	400	5.22	19.76
24	600	11.75	38.23

**(adapted from Table 6-6, Handbook of Chlorination, Clifford White, 1999)**

Water line and appurtenances shall be flushed of all highly chlorinated water prior to placing in service. The highly chlorinated water shall be dechlorinated or disposed of by the Contractor in accordance with applicable Federal or State regulations without damage to public or private property.

All water necessary for the construction, sterilization and testing of the water mains shall be furnished by the Midwest City Municipal Authority at no cost to the Contractor. The Contractor shall exercise care in the use of water.

**IX. WATER LINE / SEWERLINE CROSSING**

PVC (AWWA C900, DR18) or lined D.I. (ASTM A746, AWWA C150/ANSI A21.50, Class 51) sanitary sewer pipe may be required at locations where the minimum spacing requirement with water mains cannot be achieved. Lining material shall be 40 mils of Protecto 401™ Ceramic Epoxy or approved equal. The contractor shall furnish and install (complete) the required type and length of pipe at locations as directed by the Engineer. Materials and methods for trenching and backfill shall follow specifications as set in Section 0300 "Sewer line Construction".

## SECTION 0202

### WATER SERVICE INSTALLATIONS

#### I. Introduction

These specifications as presented herein are intended to supplement City Code 22-2-1. In no case shall these specifications supersede any provisions of the Midwest City Municipal Authority City Code or approved ordinances.

These specifications are divided into two major sections: Installation Procedures and Material Specifications. All water service installers shall comply with the requirements of the Material Specifications. Installation procedures are further divided into four subsections; General requirements, New Subdivision Water Service Crossing by Developer, Water Service Installations by builder and Water Service Installations by Midwest City Municipal Authority Water Distribution Division. All installers shall comply with the provisions of the General Requirements subsection while requirements for specific types of installations are presented in the remaining subsections.

All installers are encouraged to thoroughly familiarize themselves with these specifications, City Code 22-2-1 and all other ordinances or sections of the City Code that apply to water service installations. Failure to do so shall not be an acceptable reason for non-compliance.

#### II. Definitions

Terms used in these specifications and in City Code 22-2-1 shall have the following meanings:

1. Water Distribution Division shall mean the Water Distribution Division of the Public Works Department, and all include all authorized employees and deputies thereof, except as otherwise clearly shown by context.
2. Director shall mean the Director of the Public Works Department.
3. Water service used alone as a single term and without any other qualifying or descriptive word connected therewith as a part of the term containing such words shall] be construed in the sense of the ordinary meaning and general usage ascribed thereto and be inclusive of the general municipal service of providing, maintaining, and distributing water and providing, maintaining and operating all of the facilities and procedures legally under the control of the Water Distribution for the purposes of said service.

4. Meter service connection shall mean the service pipe connected to a City water main and extending from there to the property line of premises serviced or subject to be served by the water service.
5. Extension service line shall mean the extension of the meter services connection from the terminus of said connection at the property line to the point of meter setting whenever said point is inside and beyond the property line.
6. Meter setting shall mean the installation of water meter connected to the meter service connection or at the terminus of extension service line.
7. Water service installation shall mean the saddle, tapping, meter service connection, and meter box setting, in accordance with the City Engineer's specifications on file in the City Clerk's Office.
8. Water service crossing is the service line from the water main, including the tap in the street or alley right-of-way, to the property of lots on the opposite side of the street or alley paving from the water main.
9. Slip is defined as any pipe, hose, or other apparatus which is installed at any location between a City water main and any private domestic or commercial system in such a manner that water can be withdrawn from the City water main without passing through a meter installed by the City.
10. Water Distribution Division shall mean the Water Distribution Division of the Public Works Department and shall include all authorized employees.
11. Field Service Branch shall mean the Revenue Services Division of the Finance Department and shall include all authorized employees.

### III. Installation Procedures

#### A. General Requirements

1. This subsection of the specifications shall apply to all water service installers.
2. All installers are to supply and use materials complying with the requirements of Section IV - Material Specifications. When a brand name is specified, any other item of an equal quality may be substituted with the City Engineer's approval. When a question arises as to applicability, the City Engineer shall also determine whether a specific item complies with the specifications.
3. The use of slips or unauthorized meters is prohibited and such use shall constitute a violation of City Code 22-2-1.

4. The installer shall be responsible for coordination of his activities with all appropriate agencies and utility companies. Information pertaining to specific locations of City owned water and sewer lines may be obtained from the Water Distribution Division of the Department of Public Works. Operation of water valves on City owned and maintained mains is to be accomplished by Public Works personnel only. If it is necessary to operate any valve, 24 hours advance notice to the Public Works Department is required unless an emergency situation exists. An emergency situation is defined as a water line break occurring with a resulting leakage of water from the main or any other situation that would endanger someone's life or result in property damage. The installer shall also contact all owners of private utilities (gas, electric, telephone, etc.) prior to excavating and comply with any requirements that they may have pertaining to the safety of their facilities.
5. In the event that a City owned water or sewer main is damaged by an installer making a water service installation, the Community Services Department representative shall contact the Public Works Department and the damaged utility shall be repaired by the public Works Department. Following the repair to the damaged utility by the Public Works Department, the responsible installer will be charged. Said charges shall be based on current labor and material prices to the City and equipment rates charged shall be based on the current edition of "Rental Rates Compilation", as published by the Associated Equipment Distributors. No further installation permits will be issued to the installer until such charges are recovered.
6. All water service installations shall be accomplished by an individual who holds a Water Operator's Certificate issued by the Oklahoma State Department of Environmental Quality or by an individual who holds a plumber's license issued by the State of Oklahoma or who is working under the responsible charge of such licensed plumber.
7. Each separate lot shall have its own meter service connection with each service having a minimum nominal diameter of 1 inch.
8. Installation of more than one water service to serve an individual lot shall be prohibited unless a separate application has been approved.
9. The installer shall refer to Midwest City Municipal Authority standard details of Water Systems (2) for schematic representations of completed water service installations.
10. All taps to City owned water mains shall be made while the main is under normal working pressure. Direct taps shall be made with a suitable tapping machine in good working order and the machine shall simultaneously tap

the main and install a corporation stop. Taps made using tapping saddles and a corporation shall be made thru the corporation with the main under pressure. Corporation stops shall be installed with the longitudinal axis of the stop forming an approximate 45" angle with the vertical. Minimum spacing for tapping the main is 18 inches for 1 inch taps and 24 inches for 2 inch taps with the spacing for larger taps to be determined by the Inspector at the time of the tap.

11. 1" services taps shall only be made with a tapping saddle for either ductile iron pipe or PVC pipe by using Double strap brass or full wrap Stainless steel band. Threaded connections shall be made according the manufacturer's recommendations and utilize teflon tape. Service taps larger than 1" and up to 2" on ductile iron pipe can be made either by direct tap or with a tapping saddle. Service taps larger than 1" and up to 2" on PVC pipe shall be made utilizing tapping saddles only. Saddles shall be brass body double strap/double bolt types such as Mueller BR2B or stainless steel double bolt wrap around type such as Ford FS1 Repair Clamp with optional tap. All saddles shall be wrapped with polyethylene wrap (AWWA C105/A21.5-05). All services shall be bedded and backfilled with an approved washed sand. Only tapping saddles shall be used on thin walled PVC pipe.
12. Meter service lines installed under existing streets and paved alleys shall be bored. All excavation shall be a minimum of 24 inches from back of curb or edge of pavement. Bores shall be a minimum of 36 inches below the top of street curb or crown of street or alley without curbs. The bore shall be no larger than the outside diameter of the service line plus one (1) inch. At locations where boring is not practicable, a separate paving cut permit must first be acquired from the Community Services Department. The permit will be issued in accordance with City Code 21-2-203 and all subsequent revisions thereto. Water service lines installed under parking lots or non-paved areas shall have a minimum depth below finished grade of 30 inches.
13. The meter service connection shall not be kinked during the installation. Any evidence of weakened areas along the line due to bending the pipe too short shall be cause for rejection of that installation. The meter service connection shall be installed with adequate expansion/contraction goosenecks on a horizontal plane both at the corporation stop and the meter box. Service lines shall extend a minimum of five (5) feet beyond the meter box on the property line side. The service line from the main line to the meter box shall be continuous with no intermediate couplings or connections.
14. Both far side water services and near side water services shall have water meter boxes installed on the property lines. All boxes are to be installed in

locations readily available for reading by the Field Services Branch, Revenue Service Division, and in no case shall a box be located in or under a driveway or sidewalk. Each meter box is to be installed plumb and the top of the box is to be flush with the finished ground level. All service lines on the property owner's side of the meter, when the meter is located in a street right-of-way or public easement, shall extend from the meter to the property line in as short a route as physically possible.

B. New Subdivision Water Service Crossings by Developer

1. A developer, as herein used, is defined as a person, whether individual or corporate, that acquires land and installs water, sewer, drainage and street improvements. The land is then subdivided into smaller parcels and sold to builders.
2. This subsection of the specifications shall apply to water service crossings in new housing developments. All provisions of the Section III.A - General Requirements shall also apply to this type of installation.
3. Work required under this subsection is as generally defined in City Code 22-2-1-211.
4. Construction activity covered by this subsection consists of supplying a water service crossing from the water main that is either existing or previously placed by the developer to all lots in the subdivision that are located on the opposite side of the street (proposed or existing) from the main. Lots located adjacent to cul-de-sacs shall also be served in this manner. Said crossings shall consist of tapping the main, installing saddle and/or corporation, placing the service line and attaching an angle valve at the property line of the lot being served.
5. Prior to installation of the water service crossings, the developer or his contractor shall give advance notice to the Community Services Director or his representative so an Inspector can be assigned to the project. All crossings shall be complete and approved by the Community Services Director prior to City Council acceptance of the subdivision improvements.
6. All taps on un-dedicated water lines in new subdivisions shall be made and water service crossings installed prior to street construction. Water service crossings shall be installed a minimum of 36 inches below the finished top of curb elevation of all proposed streets. Water service crossings made prior to street construction may be made by the open-trench method.
7. The main lines are to be tapped while the line is under normal working pressure. After the main line has been chlorinated and the water service crossings are complete, the water service crossings shall be flushed with

fresh water from the main line for a minimum of 5 minutes. The angle valve is then to be closed and each water service crossing be observed for another 5 minutes for leaks while under main line pressure. The corporation stop shall be left in the opened position.

8. The crossings are to be made in pairs; one line for each of the adjacent lots. The crossings are to be located on the property dividing the two lots being served. Each line shall be connected separately to the main with its own corporation stop and each line shall receive an angle valve at the end facing the lot being served. The crossings are to be of such a length and the angle valve placed in such a manner to assure that the meter, when installed, would be located 30" back of curb.
9. Each pair of crossings may be placed in the same ditch. No special backfill will be required if both of the following conditions are met: 1) Ditch width is not to exceed 6 inches, and; 2) Crossings made and backfilled prior to base preparation (subgrade preparation, lime stabilization, placement of crushed stone base, etc.) for proposed street. If either condition is not met, the ditch shall be backfilled with sand, all of which passes a 3/8 inch sieve and not more than 15% passing the No. 200 sieve, compacted in 6 inch layers within the limits of pavement and 2 feet back of the proposed curb.
10. Due to the physical layout of cul-de-sacs, the developer shall also be required to construct those water service crossings that must cross under the street pavement. Refer to Midwest City Municipal Authority standard details of Water Systems (2) for a schematic presentation of this special case.

#### C. Water Service Installation by Builder

1. Builder, as herein used, is defined as a person, whether individual or corporate, that constructs or causes the construction of new residential, commercial or industrial structures or modifications to existing structures. The builder may be, but is not required to be, the same person that developed the land on which the construction takes place (i.e., the developer).
2. All provisions of the Section III.A - General Requirements shall apply to work accomplished under this subsection of these specifications.
3. Work required under this subsection is as generally defined in City Code 22-2-1-211. More specifically, the builder shall be responsible for supplying the materials that are necessary for constructing complete water service installations. Water service installations consist of, but may not be limited to, tapping the main line, installing saddles and/or corporation stops, placing service lines, meter boxes, angle valves, and the complete



connection to the customer side of the meter. An exception to this is when the developer has previously placed the water service crossing.

4. When the installer constructs a complete water service installation, he shall be responsible for installation of all items except the water meter. The City's Field Services Branch, Revenue Services Division shall be responsible for installation of the meter. The water service installer shall construct the installation in such a manner as to facilitate placement of the meter. The space left between the water meter couplings for the meter shall have the following dimensions for the various meter sizes:

<u>Meter Size</u> (Inches)	<u>Spacing</u> (Inches)
5/8	8
1	11
1-1/2	13
2	17

For meter sizes greater than 2 inches, spacing information shall be obtained from the Water Distribution Division.

5. Water service installations performed by builders under the requirements of these specifications and City Code 22-2-1-211 are subject to inspection by the Water Distribution Division. Said inspections shall be coordinated with the Water Distribution Division as outlined in City Code 22-2-1.
6. For water service installations performed by builders on dedicated fire lines, the meter shall be constructed within the easement at a distance not greater than ten (10) feet from the fire line and at a location between the front or side of the building and the property line adjacent to a street right of way.

D. Water Service Installation by Midwest City Municipal Authority's Water Distribution Division

1. All provisions of the Section III.A - General Requirements shall apply to work accomplished under this subsection of these specifications.
2. Work required under this subsection is as generally defined in City Code 22-2-1.

IV. Material Specifications

A. Introduction

1. All installers are to supply and use materials complying with the requirements of Section IV - Material Specifications. When a brand name is specified, any other item of an equal quality may be substituted with the

City Engineer's approval. When a question arises as to applicability, the City Engineer shall also determine whether a specific item complies with the specifications.

2. The following specifications are divided into six subsections with each subsection specifying a particular component of the water service installation. Each subsection is further divided into three sections; "Materials", "Workmanship" and "Testing". The "Workmanship" section covers the quality of the work involved in the manufacturing process. The "Testing" section applies to testing in the manufacturer's shop and does not apply to field testing by the installer.
3. Included in the following specifications are references to specific ASTM (American Society for Testing and Materials) and AWWA (American Water Works Association) standard specifications. These specifications are to become a part of this document by reference as if they were included in total. Each ASTM and AWWA standard specification listed shall be the latest revision issued.

B. Corporation Stops

1. Materials

All brass castings shall conform to ASTM B62, Standard Specifications for Composition Bronze or Ounce Metal Castings. All bodies, plugs, D Washers and bottom nuts shall be of cast bronze. Corporation stops shall meet the following table, or be equivalent as determined by the City Engineer. All shall have Pack nut all brass compression connection.

<u>Manufacturer</u>	<u>Catalog No.</u>
Ford	F 1000
Hays	5200 CF, DD, EF
Jones	J 3401
Mueller	H/P 15008 or H/P 15013

2. Workmanship

- a. The key and body shall be accurately fitted together by turning the key and reaming the body, and the seating surfaces shall be lapped together using abrasive suspensions to insure accurate fit.
- b. The port through the corporation stop shall be full size and so shaped as to eliminate turbulence in the flow passageway.
- c. Inlet and outlet threads shall conform to the latest revision of AWWA C 800 and shall be protected during shipment and storage by plastic coating or other suitable means.

- d. All corporation stops shall be so designed as to rotate about the axis of the flow passageway to properly clear the tapping machine.

3. Testing

- a. All corporation stops shall be tested at the factory by the manufacturer. Such tests are to be made at 85 PSIG air pressure while submerged in water, both in the open and closed positions, and shall show no leakage during a minimum period of 10 seconds.
- b. At the City's option, stops shall be subjected to a 300 PSIG hydrostatic test and shall not leak and shall not show signs of structural failure.
- c. The City will make such confirming laboratory tests as may be considered necessary and such tests will govern the acceptance or rejection, in whole or in part, of the shipment involved.
- d. At the City's option, the manufacturer shall be required to provide certification records in triplicate of confirmation of materials, design and testing requirements as contained in these specifications.

C. Service Lines

1. Materials

- a. Polyethylene (PE) plastic tubing shall conform to ASTM D2737, PE-3408, SDR 9-200 psi rated and AWWA C-901 shall be utilized. Copper locator wire 12 AWG single conductor type THHN or THWN shall be utilized with polyethylene (PE) plastic tubing. Wire shall extend from the main to the meter box without splices. Connection to water line locator wire shall be in a water proof type connection. Minimum size shall be one (1) inch diameter.
- b. The copper tubing shall not be utilized unless authorized by the Engineer. Copper tubing shall conform to ASTM B 88 and AWWA C 800, Type K, Copper Water Tube, unless otherwise specified. Annealed tubing shall be required. Minimum size shall be one (1) inch diameter.

2. Workmanship

Service lines shall be seamless and suitable for underground water services.

3. Testing

- a. Polyethylene plastic tubing shall be tested at the factory according to the specifications for polyethylene plastic tubing noted in C.1.a.
- b. Copper tubing shall be tested at the factory and shall have an ultimate tensile strength of 6480 psi for 1 inch diameter. Tubing shall be hydrostatical tested at 693 psi for 1 inch diameter and have a safe working pressure of 513 psi for 1 inch diameter tubing.
- c. The City may make such confirming laboratory tests as may be considered necessary and such tests will govern the acceptance or rejection, in whole or in part, of the shipment involved.
- d. At the City's option, the manufacturer shall be required to provide certification records in triplicate of conformance of materials, testing and design requirements as contained in these specifications.

D. Service (Tapping) Saddles

1. Materials

- a. Brass saddles shall have brass castings, bolts, nuts and double straps which shall conform to ASTM B 62. Stainless steel saddles shall be 304 stainless steel including tap, band, nuts and bolts and shall be full wrap around type. All saddles shall be wrapped with polyethylene wrap.
- b. Castings shall be free of porosity and all sharp edges removed.
- c. Service saddles shall be double strap type such as Mueller BR2B or full wrap around type such Ford FS1 Repair Clamp with optional tap or approved equal.

2. Workmanship

- a. Service clamps shall be constructed to fit the contour of pipe of the following dimensions:

<u>Nominal Pipe Size, Inches</u>	<u>Minimum Pipe O.D., Inches</u>	<u>Maximum Pipe O.D., Inches</u>
1.50	1.900	2.000
2.00	2.375	2.500
2.25	2.875	3.000
4.00	4.900	5.000
6.00	6.900	7.100
8.00	9.050	9.300
10.00	11.100	11.400

- b. The saddles shall be formed to fit against the walls of the maximum diameter of the specified pipe size with approximately 180 degree wrap-around.
- c. The outlet boss shall be designed so that outlet threads will not be distorted by bending moments. The outlet boss shall be tapped for corporation stop thread conforming to Table 1 of AWWA Specification C 800.
- d. The clamp casting shall be clearly marked by letters and numerals cast thereon showing the manufacturer's name and type and size of pipe for which the clamp is designed.

3. Testing

- a. Each service clamp shall be tested by the manufacturer with 85 PSIG air pressure while submerged in water and shall show no signs of leakage during a minimum time of 10 seconds.
- b. At the City's option, service clamps shall be subjected to a 300 PSIG hydraulic test and shall not leak or show signs of structural failure.
- c. The City will make such confirming laboratory tests as may be considered necessary and such tests shall govern the acceptance or rejection, in whole or in part, of the shipment involved.
- d. At the City's option, the manufacturer shall be required to provide certification records in triplicate of conformance of materials, design and testing requirements as contained in these specifications.

E. Miscellaneous Materials

1. Materials

- a. Unless otherwise approved in writing, all material between the main line and the meter shall be bronze or copper or HDPE with polyethylene, neoprene or polybutylene gaskets. Galvanized iron fittings, nipples, valves, etc., shall not be installed in service taps.
- b. Any alternate material for water service installation shall be submitted 30 days prior to the installation for consideration. Prior approval of alternate materials shall not be construed as "Blanket Approval" for the materials and shall not waive the responsibility of the contractor to acquire approval of the material for each subsequent installation.

2. Workmanship

- a. All copper and brass castings shall be ported full size and so shaped as to eliminate turbulence in the flow-way.
- b. Threads shall conform to AWWA C 800 and shall not be damaged prior to installation. Threads on meter connections shall conform to AWWA C 700.

F. Meter Boxes

1. Materials

- a. Meter Boxes and Extensions installed in areas not subjected to vehicular traffic loading shall be rectangular polyethylene structural foam, impregnated with carbon black during the molding process. Meter Boxes shall be manufactured by Oldcastle Infrastructure or approved equal.
  1. For 1" Meters, or smaller, the Meter Box shall be Carson Spec Grade 1324 (13" x 24") or approved equal, and shall have a depth of 12", with a 6" depth extension to stack for 18".
  2. For 1½" and larger Meters, the Meter Box shall be Carson Spec Grade 1730 (17" x 30") or approved equal, and shall have a depth of 12", with a 6" depth extension to stack for 18".
  3. Meter box covers shall be a solid flush cover, and may be constructed of polyethylene plastic. The cover shall be embossed with the word "WATER" or "WATER METER". Covers shall be Sensus AMR compatible.
- b. Meter Boxes and Extensions installed in areas subjected to occasional vehicular traffic loading shall be rectangular HDPE boxes able to withstand an H-20 traffic load rating. Meter boxes shall be manufactured by Oldcastle Infrastructure or approved equal.
  1. For 1" Meters, or smaller, the Meter Box shall be polyethylene Carson Heavywall BCF 1324 (13" x 24") or approved equal, and shall have a depth of 12", with a 6" depth extension to stack for 18".
  2. For 1½" to less than 3" meters, the Meter Box shall be polyethylene Carson Heavywall BCF 1730 (17" x 30") or approved equal, and shall have a depth of 12", with a 6" depth extension to stack for 18".
  3. Meter Boxes shall have a solid flush cover that, when provided with the meter boxes specified above, retain an H-20 traffic load rating. The cover material options include composite, polymer, or ductile iron. The cover shall be

embossed with the word "WATER" or "WATER METER".  
Covers shall be Sensus AMR compatible.

- c. All Meter Boxes and Covers shall both be black.

**SECTION 0203**

**ROADWAY EXCAVATION, BACKFILL and COMPACTION**

1. GENERAL:

The work covered by this section is as described in Section 202.01 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition or the latest edition thereof. The scope of this section also includes the removal of all existing pavement and curbs as indicated on the project plans. All grading and related operations shall be included in the section also. All excavation is designated as unclassified excavation.

2. MATERIALS:

The materials used in the excavation of the work covered by this section shall be as noted in Section 202.04 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition or the latest edition thereof.

3. CONSTRUCTION METHODS:

The construction methods used to execute the work covered by this section shall be in accordance with Section 202.04 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition or the latest edition thereof.

## **SECTION 0204**

### **PAVING REPAIR AND RESURFACING AND TEMPORARY SURFACING**

1. GENERAL:

This section covers the permanent repair and resurfacing of street, driveway and sidewalk cuts by utility trenches and related excavations/repairs of street pavements; and the installation, maintenance, and removal of a traffic-bound surface course (TBSC) for use as a temporary pavement surface during construction operations.

2. MATERIALS

All materials used shall conform to the requirements set forth in the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition or the latest edition thereof.

3. CONSTRUCTION METHODS

3.1 GENERAL

- 3.1.1 All paved surfaces shall be removed to neat saw cut lines to a width equal to the trench width plus 12 inches on either side OR as directed by the Engineer.
- 3.1.2 Trench backfill/compaction under streets, driveways and sidewalks shall be in accordance with the requirements shown on Details 5 & 6 on City Water Systems Standards.
- 3.1.3 Contractor shall coordinate activities with the OWNER.
- 3.1.4 Construction methods shall conform to those set forth in ODOT Standard Specifications noted above.

3.2 STREET CUTS/REPAIRS

- 3.2.1 All asphalt and concrete street cuts for trench excavation shall be repaired in accordance with Details 5 & 6 on City Water Systems Standards.
- 3.2.2 All asphalt alley cuts shall be repaired in accordance with Details 6, except that the concrete requirement shall be deleted, and the repair section shall be surfaced with asphalt to the thickness of the existing section but not less than four (4) inches.



3.2.3 All street cuts (including curb & gutter) for other than trench excavations shall be repaired in accordance with City Street Standards.

3.2.4 Arterial streets shall be repaired utilizing a typical section equal to the existing pavement or as a minimum in accordance with city street standards.

### 3.3 DRIVEWAY AND SIDEWALK CUTS/REPAIRS

3.3.1 Concrete driveway cuts shall be repaired in accordance with Details 5 on Midwest City Municipal Authority Standard Details for Water Systems with the exception that the concrete requirement shall be reinforced 4000 psi high early strength (H.E.S.) concrete.

3.3.2 Asphalt driveway cuts shall be repaired with Superpave S4 or S5 asphalt to the thickness of the existing section but not less than six (6) inches.

3.3.3 Gravel driveways shall be resurfaced with 4" of compacted Type "C" Traffic Bound Surface Course.

3.3.4 Concrete sidewalks shall be removed as needed to an existing joint and replaced with 4" thick 3500 psi concrete.

### 3.4 TRAFFIC-BOUND SURFACE COURSE (TBSC)

3.4.1 TBSC as described in Section 402 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition or most current edition, will be placed as called for on the Plans or as directed by the Engineer.

3.4.2 When the need for the temporary surface no longer exists, the Contractor will remove the TBSC and dispose of it off site or as directed by the Engineer.

## SECTION 0205

### MEASUREMENT AND PAYMENT

Items in this section are paid in accordance with this section only if the item is listed on the Bid Form. If the item is not listed on the Bid Form, and is necessary to complete the project, the item shall be considered incidental to the work. Costs for the incidental work are to be included in other items. No separate payment shall be made if the item is incidental to the work.

#### 1.1 MOBILIZATION & DE-MOBILIZATION

**METHOD OF MEASUREMENT:** Mobilization and de-mobilization shall be measured by each. Mobilization shall be paid at the contract unit price bid for each work order issued. Payment shall include material, labor, equipment, and other incidentals as specified in contract. Mobilization shall be paid at no more than 50% at start of construction and monthly thereafter based on progress. Payment for de-mobilization shall occur only after the close out documents are received. Mobilization cannot exceed 5% of the total work order cost.

**BASIS OF PAYMENT:** Mobilization and de-mobilization shall be paid at the contract unit price for:

Mobilization	Lump Sum
De-mobilization	Lump Sum

#### 1.2 WATER MAIN

**METHOD OF MEASUREMENT:** Ductile Iron Pipe, Class 50 or PVC C900 DR18, HDPE C906 IPS DR11:

Water line shall be measured along the centerline of water line installed, through all valves and fittings. The unit price payment shall be considered full compensation for furnishing and laying of all water main, encasing ductile iron pipe in polyethylene, installation of copper tracer wire with non-ferrous pipe, testing, disinfecting the line, trenching and backfill of water line and incidentals necessary to make a complete project. All material and equipment costs including temporary caps and corporation stops required for testing will be included in cost of water line pipe on Bid Schedule.

Payment for HDPE pipe shall include all equipment, labor and materials required to install the DR11 IPS HDPE pipe aside from the items otherwise included in the DIRECTIONAL BORE pay item. Any materials or labor required to fuse the pipe or connect the fusible pipe on either side of the bore are incidental to this pay item, including reducers. Owner may consider use of Fusible PVC in lieu of HDPE, at no additional cost to Owner. Bid shall be based on use of HDPE.

6" PVC required for hydrant leads are not paid for under the WATER MAIN pay item, and cost for such pipes shall be included in price bid under the FIRE HYDRANT ASSEMBLY pay item.

BASIS OF PAYMENT: Accepted water line will be paid for at contract unit price for:

Size as Identified on Bid Schedule C900 PVC DR 18	Linear Foot
Size as Identified on Bid Schedule C906 HDPE DR 11 IPS	Linear Foot
Size as Identified on Bid Schedule DIP Class 50	Linear Foot

#### 1.4 DIRECTIONAL BORE

METHOD OF MEASUREMENT: Directional bore shall be measured by the linear foot complete and accepted. Measurement for directional bore will be made on a direct horizontal line from station to station. Payment for directional bore shall include all equipment, labor and materials required to complete directional bore and install water line through bore, including the pulling of pipe, except for materials, labor, and equipment included in the WATER MAIN pay item.

BASIS OF PAYMENT: Accepted Directional Bore/casing shall be paid at the contract unit price per linear foot of the size and type of bore and/or casing set forth:

Size as Identified on Bid Schedule Directional Bore w/Casing	Linear Foot
Size as Identified on Bid Schedule Directional Bore w/o Casing	Linear Foot
Size as Identified on Bid Schedule Directional Bore Casing Only	Linear Foot

#### 1.5 DUCTILE IRON FITTINGS (AWWA C153)

METHOD OF MEASUREMENT: Fittings to be paid for shall be measured by weight for size and type of fitting required for a complete project. Fitting weights shall be bare body AWWA weights. The fitting accessories shall be considered incidental, and weight shall not be included in weight of fittings but should be included in unit bid price for fittings. The unit price payment shall be considered full compensation for furnishing all material, tools, equipment, labor, and incidentals necessary for a complete job. Megalugs as shown on the plans and details shall be paid for under this pay item. Additional Megalugs required at the direction of the Engineer or Owner shall be paid for under the Restraining Glands Allowance items.

Owner may consider use of mechanical joint restraint in lieu of thrust blocks at vertical bends at no additional cost to Owner. In such cases, Contractor must submit sealed calculations for joint restraint for Owner review. There will be no additional cost to the owner for the substitution of mechanical joint restraints in lieu of thrust blocks. That is, the cost for the mechanical joint restraints would be incidental to the cost for pipe like thrust blocks and will not be paid for under Ductile Iron Fittings or Restraining Glands Allowance pay items unless their use is explicitly directed by Owner in writing.

BASIS OF PAYMENT: Accepted fittings will be paid for at the contract unit price for:

Ductile Iron Fittings (AWWA C153)	Pounds
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## 1.6 RESTRAINING GLAND ALLOWANCE

**METHOD OF MEASUREMENT:** Restraining glands shall be measured by each restraining gland satisfactorily installed at the direction of the Owner. Mechanical joint required by plans and specifications shall be paid for under the DUCTILE IRON FITTINGS (AWWA C153) pay item. Additional restraining glands required upon the written request of the Owner shall be paid for under this pay item. Payment will be made at the unit price bid for each restraining gland. This payment shall be total compensation for all material, tools and incidentals required for a complete job.

Owner may consider use of mechanical joint restraint in lieu of thrust blocks at vertical bends at no additional cost to Owner. In such cases, Contractor must submit sealed calculations for joint restraint for Owner review. There will be no additional cost to the owner for the substitution of mechanical joint restraints in lieu of thrust blocks. That is, the cost for the mechanical joint restraints would be incidental to the cost for pipe like thrust blocks and will not be paid for under Ductile Iron Fittings or Restraining Glands Allowance pay items unless their use is explicitly directed by Owner in writing.

Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is authorized on allowance items beyond what is included in the unit price bid.

**BASIS OF PAYMENT:** Accepted restraining gland will be paid for at the contract unit price for:

Size as identified on Bid Schedule Restraining Gland Allowance	Each
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## 1.7 RESILIENT-SEATED GATE VALVES

**METHOD OF MEASUREMENT:** Resilient seated gate valves shall be measured by each valve of various size and valve box satisfactorily installed according to the plans and specifications. Payment will be made at the unit price bid for each valve. This payment shall be total compensation for all material, tools and incidentals required for a complete job, including any valve boxes, manholes, or other accessories as shown on the plans and specifications.

6" Gate Valves required for hydrant assemblies shall be included in the cost of the hydrant assembly and no additional payment shall be made. Additional gate valves required for fire hydrant assemblies with leads greater than 20 linear feet shall be paid for under the 6" gate valve allowance item. Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is authorized on allowance items beyond what is included in the unit price bid.

**BASIS OF PAYMENT:** Accepted valves will be paid at the contract unit price for:

6" Gate Valve AWWA 509 Allowance	Each
Size as Identified on Bid Schedule Gate Valve AWWA 509	Each

## 1.8 BUTTERFLY VALVES

**METHOD OF MEASUREMENT:** Butterfly valves shall be measured by each valve of various size and valve box satisfactorily installed according to the plans and specifications. All valves larger than 12" shall be Butterfly Valves. Payment will be made at the installation price for each valve, as well as valve box equipment cost.

Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is authorized on allowance items beyond what is included in the unit price bid.

**BASIS OF PAYMENT:** Accepted valves will be paid at the contract unit price for:

Size as Identified on Bid Schedule Butterfly Valve AWWA C504 Each

## 1.9 FIRE HYDRANT ASSEMBLY

**METHOD OF MEASUREMENT:** Fire Hydrants will be measured by the number in place and complete. Payment will be made at the unit price bid for each fire hydrant and 6" gate valve installed in place and such payment shall constitute full compensation for supplying and installing all pipe required for hydrant lead, hydrant extensions, rock for drain, thrust blocking, trenching and backfill, tee, resilient-seated gate valve, valve box, testing, equipment and any other incidentals required for complete installation.

Additional Fire Hydrant Assemblies not shown on the plans may require replacement upon direction of the Owner and Engineer. These additional Fire Hydrant Assembly Replacements shall be paid for under Fire Hydrant Assembly Replacement Allowance item. Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is authorized on allowance items beyond what is included in the unit price bid.

**BASIS OF PAYMENT:** Accepted fire hydrant assemblies will be paid for at the contract unit price for:

Fire Hydrant Assembly	Each
Fire Hydrant Assembly Replacement Allowance	Each

## 1.10 2" AUTOMATIC FLUSHING DEVICE

**METHOD OF MEASUREMENT:** 2" Automatic flushing device shall be measured by each 2" automatic flushing device completed and accepted. Payment shall include all material, labor, equipment, and other incidentals required to install a complete 2" automatic flushing device and automatic flush point as shown in the details. Payment shall be at the contract unit bid price for 2" flushing device.



**BASIS OF PAYMENT:** Accepted service line will be paid for at the contract unit price for:

1" Service Installation Short	Each
1" Service Installation Long	Each
1.5" Service Installation Short	Each
1.5" Service Installation Long	Each
2" Service Installation Short	Each
2" Service Installation Long	Each
1" C901 HDPE Allowance	Linear Foot
1.5" C901 HDPE Allowance	Linear Foot
2" C901 HDPE Allowance	Linear Foot

#### 1.14 DRIVEWAY REPAIR

**METHOD OF MEASUREMENT:** Driveway repair shall be measured by the square yard of repair completed and accepted. The contractor may elect to bore under a driveway in lieu of trenching. All costs for the bore shall be paid at the contract bid price for driveway repairs for the type of driveway bored, i.e. concrete or asphalt. Driveway repair shall be paid at the contract unit price bid for driveway repair. Payment shall include removal of existing pavement, grading, limestone screening, backfill, compaction of backfill to 95% standard proctor density, pavement material, all labor and other material to complete driveway repair as shown on plans or as directed by Project Engineer. All sidewalks shall be paid under contract unit price bid for driveway repair (concrete) where they intersect the driveway. Sidewalks not within the driveway shall be paid for under the separate SIDEWALK INSTALLATION/REPLACEMENT pay item.

**BASIS OF PAYMENT:** Accepted driveway repair shall be paid at the contract unit price for:

Driveway Repair (Concrete)	Square Yard
Driveway Repair (Asphalt)	Square Yard

#### 1.15 SIDEWALK INSTALLATION/REPLACEMENT

**METHOD OF MEASUREMENT:** Sidewalk shall be measured by the square yard of repair completed and accepted outside of the width of driveways. Sidewalk shall be paid at the contract unit price bid for sidewalk repair. Payment shall include removal of existing pavement, grading, limestone screening, backfill, compaction of backfill to 95% standard proctor density, pavement material, all labor and other material to complete driveway repair as shown on plans or as directed by Project Engineer. All sidewalks shall be paid separately under the driveway repair (concrete) pay item where they intersect the driveway. Sidewalks not within the driveway shall be paid for under this pay item.

**BASIS OF PAYMENT:** Accepted driveway repair shall be paid at the contract unit price for:

Sidewalk Installation/Replacement	Square Yard
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### 1.16 STREET REPAIR

**METHOD OF MEASUREMENT:** Street repair shall be measured by the square yard of repair completed and accepted. Street repair shall be paid at the contract unit price bid for street repair. Payment shall include removal of existing pavement, grading, paving, and lime screenings backfill material, labor, equipment and other incidentals required to repair street as specified in contract.

**BASIS OF PAYMENT:** Accepted street repair shall be paid at the contract unit price for:

Street Repair (Concrete)	Square Yard
Street Repair (Asphalt)	Square Yard

### 1.17 GRAVEL DRIVWAY / STREET REPAIR

**METHOD OF MEASUREMENT:** Gravel Driveway / Street Repair shall be measured by the Square Yard. Gravel Driveway / Street Repair shall be paid at the contract unit price bid for Gravel Driveway / Street Repair. Payment shall include removal of existing gravel, grading, compacting, and all lime screenings backfill material, labor, equipment, and other incidentals required to repair the driveway or street as specified in contract.

**BASIS OF PAYMENT:** Accepted Gravel Driveway / Street Repair shall be paid at the contract unit price for:

Gravel Driveway / Street Repair	Square Yard
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### 1.18 FENCE REPLACEMENT

**METHOD OF MEASUREMENT:** Fence replacement shall be measured by the Linear foot for fence replaced and accepted. Payment shall include all labor, material, and other incidentals to reinstall existing fence that is removed by direction of Project Engineer. Fence removed but not reinstalled shall not be paid for under the contract unit price for fence replacement; but shall be considered incidental and cost included in other pay items.

Additional fence repair required for the project shall be paid for under the Fence Repair Allowance item. Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is authorized on allowance items beyond what is included in the unit price bid.

**BASIS OF PAYMENT:** Accepted fence replacement shall be paid at the contract unit price for:

Fence Replacement	Linear Foot
Fence Repair Allowance	Linear Foot



## 1.19 GRASSING

**METHOD OF MEASUREMENT:** Grassing shall be measured by the square yard of solid slab sod completed and accepted for up to 10-foot width along water mains outside of paved or gravel areas and up to 4-foot width along service lines and fire hydrant leads outside of paved or gravel areas. Sod shall be defined as blocks, squares, strips of turfgrass, and adhering soil used for vegetative planting. All disturbed non-paved areas must be restored with sodding. Contractor to place from edge to edge for complete coverage and shall extend grassing beyond width limits established here at no additional cost to Owner. Grassing shall be paid at the contract unit price bid for planting of sod and restoration of existing lawn areas disturbed by construction.

**BASIS OF PAYMENT:** Accepted grassing shall be paid at the contract unit price for:

Grassing (Solid slab sod)	Square Yard
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## 1.21 WORK CHANGE DIRECTIVE ALLOWANCE

Work Change Directive Allowance is for work required during the completion of the Project to be used solely at the discretion of the Owner and Engineer. Contractor markup shall apply. No additional General Contractor profit and overhead will be allowed on Allowance. Use of allowances must be authorized by Owner and Engineer prior to use. All unused allowance will be deducted from the final contract amount. No markup is allowed under this allowance.

**BASIS OF PAYMENT:** Work Change Directive shall be paid at the contract unit price for:

Work Change Directive Allowance	Lump Sum
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## 1.22 AGGREGATE BACKFILL ALLOWANCE

**METHOD OF MEASUREMENT:** Aggregate backfill that is not associated with and incidental to the various pavement, sidewalk, driveway, or street repair items shall be measured by the linear foot complete and accepted. Aggregate backfill required by plans and specifications for driveways, streets, sidewalks shall be paid for under separate pay items. Additional aggregate backfill required upon the written request of the Owner shall be paid for under this pay item for up to 3 feet depth of aggregate compacted trench backfill up to subgrade. Payment will be made at the unit price bid for each compacted cubic yard. This payment shall be total compensation for all material, tools and incidentals required for a complete job.

Use of allowances must be authorized by Owner and Engineer prior to use. No markup is authorized on allowance items beyond what is included in the unit price bid. All unused allowance will be deducted from the final contract amount.

BASIS OF PAYMENT: Accepted compacted cubic yard will be paid for at the contract unit price for:

Aggregate Backfill Allowance

Compacted Cubic Yard

### 1.23 TREE REMOVAL

METHOD OF MEASUREMENT: place holder

BASIS OF PAYMENT: place holder

Caliber inch 3 foot up (3' up)

Diameter Inch

APPENDIX A  
Definitions

Terms used in these specifications and in Ordinance No. 81-34 shall have the following meanings:

- 1) Water Distribution Division shall mean the Water Distribution Division of the Public Works Department, and all include all authorized employees and deputies thereof, except as otherwise clearly shown by context.
- 2) Director shall mean the Director of the Public Works Department.
- 3) Water service used alone as a single term and without any other qualifying or descriptive word connected therewith as a part of the term containing such words shall] be construed in the sense of the ordinary meaning and general usage ascribed thereto and be inclusive of the general municipal service of providing, maintaining, and distributing water and providing, maintaining and operating all of the facilities and procedures legally under the control of the Water Distribution for the purposes of said service.
- 4) Meter service connection shall mean the service pipe connected to a City water main and extending from there to the property line of premises serviced or subject to be served by the water service.
- 5) Extension service line shall mean the extension of the meter services connection from the terminus of said connection at the property line to the point of meter setting whenever said point is inside and beyond the property line.
- 6) Meter setting shall mean the installation of water meter connected to the meter service connection or at the terminus of extension service line.
- 7) Water service installation shall mean the tapping, meter service connection, and meter box setting, in accordance with the City Engineer's specifications on file in the City Clerk's Office.
- 8) Water service crossing is the service line from the water main, including the tap in the street or alley right-of-way, to the property of lots on the opposite side of the street or alley paving from the water main.
- 9) Slip is defined as any pipe, hose, or other apparatus which is installed at any location between a City water main and any private domestic or commercial system in such a manner that water can be withdrawn from the City water main without passing through a meter installed by the City.
- 10) Water Distribution Division shall mean the Water Distribution Division of the Public Works Department and shall include all authorized employees.
- 11) Field Service Branch shall mean the Revenue Services Division of the Finance Department and shall include all authorized employees.

**TECHNICAL SPECIFICATIONS**

**SECTION 0400**

**BORING AND ENCASEMENT**

## **SECTION 0400**

### **BORING AND ENCASEMENT**

#### **1.0 Description**

Where shown on the plans or at locations specified in the field by the City Engineer, the Contractor shall construct the utility lines by means of horizontal boring. Also, some creek or channel crossings may require encasement of the utility line without the need for boring. This specification shall also cover those types of crossings.

#### **2.0 Materials**

- 2.1 Steel Encasement: Steel encasement pipe shall be welded steel pipe conforming to ASTM A-139 Grade B or approved equal. The pipe shall be coated with a minimum of 2 mils of an approved bituminous coating or coal tar primer. The sizes of the encasement shall be as shown on the plans. If no size is given on the plans, the size (inside diameter) to be used shall be the outside bell diameter of the carrier pipe plus two (2") inches unless specified otherwise herein.
- 2.2 All steel encasement pipe shall have a minimum wall thickness corresponding to standard weight pipe, i.e. 0.375 in. wall thickness for 12 in. and larger pipe, unless specified otherwise.

#### **3.0 Construction Methods and Equipment**

- 3.1 Boring: Bores shall be made at the locations shown on the construction drawings. All excavation shall be a minimum of 24 inches from back of curb or edge of pavement. During boring, proper alignment and grade shall be maintained by first drilling a pilot hole on the centerline of the proposed bore and checking the pilot hole for correct alignment and grade. If the pilot hole does not match the proposed alignment and grade within tolerances allowed by the City Engineer, the Contractor shall offset the boring machine a nominal distance and bore other pilot holes until satisfactory compliance with the alignment and grade criteria is reached. As an alternative, boring may be made with guided boring equipment that contain provisions for checking and keeping the bore on line and simultaneously placing the encasement pipe. The borehole shall not be more than 2" larger than the outside diameter of the casing or of the carrier pipe if casing is not required.
- 3.2 Steel Encasement: Steel encasement shall be required only at those locations specified on the construction drawings or as required by the City Engineer, such as arterial street crossings. After boring, the steel encasement pipe shall be carefully inserted into the tunnel left by the boring machine.
- 3.3 Utility Carrier Pipe: After completion of the bore and placement of the encasement, if required, the utility carrier pipe with joint restraints shall be inserted in the bore

or casing. Carrier pipe with interior/integral joint restraints shall be pulled into the bore or casing, or carrier pipe with exterior joint restraints that meet the manufacturers recommendations may be pushed into the casing. If a casing is used, the utility pipe shall be blocked with cradles to center the pipe inside the casing and keep it from coming into contact with the casing. Casing spacers shall be High Density Polyethylene (HDPE) projection type or an approved equal and shall be installed as recommended by the manufacturer. Steel components, such as nuts, bolts, banding straps, etc., shall be constructed of stainless steel. Each end of the casing shall be sealed with a neoprene or rubber end seal attached with stainless steel bands.

**TECHNICAL SPECIFICATIONS**

**SECTION 0500**

**GRASSING**

## SECTION 0500

### GRASSING

#### 1.0 Description

This work consists of establishing a viable stand of bermuda grass according to these specifications at locations specified in the contract and by the Engineer.

#### 2.0 Materials

- 2.1 Materials shall meet the requirements of section 735 of the Standard Specifications for Highway Construction, Oklahoma Department of Transportation, 2009 Edition.
- 2.2 If hydro-mulching is done, the following materials and rates shall be used:

Per Acre:

2000	lbs	virgin wood cellulose fiber
600	lbs	10-20-10 fertilizer
60	lbs	hulled bermuda grass seed
4	in	topsoil

#### 3.0 Construction Methods and Equipment

- 3.1 Construction methods and equipment shall conform to the requirements of Section 230 of the ODOT Standard Specifications.
- 3.2 The Contractor shall provide a topsoil base at least 4" thick for all grass. Topsoil may be salvaged from the construction site or trucked in. The cost of salvaging topsoil shall be included in the price bid for grassing.
- 3.3 The Owner shall provide all water necessary for this purpose. However, the Contractor must provide all labor, equipment, etc. for applying the water. In order to keep accurate city water usage records, the Contractor will obtain a water meter from the City and submit a deposit for said meter, returnable upon completion of the project. This meter shall be used exclusively on this project.
- 3.4 Solid slab may be installed throughout the year. Sprigging or hydro-mulching shall be accomplished only from April 1 through September 30 each year. The Engineer shall issue approval prior to the start of this work.
- 3.5 Areas that do not produce a satisfactory stand of grass, as determined by the Engineer, shall be regrassed at no additional cost to the Owner. All areas disturbed that are not necessary for construction of this project or areas disturbed in excess of



that required for normal construction (as determined by the Engineer), shall be grassed at the Contractor's cost in accordance with these specifications.

- 3.6 Seeded areas shall be protected from damage or disturbance after planting operations are complete. Damage resulting from erosion, gullies, washouts, or other causes shall be repaired by filling with topsoil, tamping, re-fertilizing, and reseeded by the Contractor at his expense, if such damage occurs prior to final payment for grassing operation or acceptance of the project, whichever is later.
- 3.7 Ponding will be eliminated. Debris and stones will be removed.

**TECHNICAL SPECIFICATIONS**

**SECTION 0600**

**CONSTRUCTION SIGNING, BARRICADES, AND LIGHTS**

## **SECTION 0600**

### **CONSTRUCTION SIGNING, BARRICADES, AND LIGHTS**

#### **1.0 Description**

The Contractor shall provide the construction signing, barricades, and lights needed to protect the public and as required by the Project Engineer/Project Manager.

#### **2.0 Materials**

Construction signing, barricades, and lights shall conform to the latest edition of the "Manual of Uniform Traffic Control Devices" (MUTCD), the Oklahoma Department of Highways Construction and Maintenance Barricading, or as approved by the Traffic Engineer.

#### **3.0 Execution**

- 3.1 Signs, barricades, and lights shall be installed in compliance with the MUTCD. The Contractor shall submit a plan for construction signing at the pre-construction conference for approval by the Project Engineer/Project Manager.
- 3.2 The Contractor`s schedule shall afford maximum possible access to local property owners.
- 3.3 The Contractor will be responsible for the control of traffic within his work area. The Contractor shall furnish and erect all signs, barricades, lights, and other traffic control devices required to control traffic and maintain said devices during the duration of construction unless otherwise directed by the Project Engineer/Project Manager.
- 3.4 Maintenance of Traffic:
  - A. The Contractor shall provide reasonable access to the affected residents during construction.
  - B. The roadway, while undergoing improvements, shall be kept open to traffic by the Contractor as possible. When so provided on the plans, traffic will be detoured over an approved route. The Contractor shall keep the portion of the project being used by public traffic (through or local) in a condition such that traffic is adequately accommodated. He shall also provide and maintain, in a safe condition, intersections with streets, residential driveways, and garages.
- 3.5 Traffic Control Signs. All existing stop signs, yield signs, or other traffic control signs which impede construction shall be removed and relocated as directed by the

Project Engineer/Project Manager. When reinstalling, the Contractor shall remove existing concrete from sign and reset the sign with new concrete. It shall be the Contractor's responsibility to arrange for prior inspection by the city of all city-owned signs scheduled for removal. If the Contractor fails to notify the City prior to sign removal, it will be assumed such signs were in good condition at the time of removal.

- 3.6 Should the Contractor desire to completely close the roadway within the work area, he shall submit a written request for approval to the Project Engineer/Project Manager. The request shall contain the date and duration of closing. The Contractor shall coordinate roadway closings with the County and City officials and shall properly notify all agencies operating emergency vehicles. As a minimum, the Contractor shall provide written notice 48 hours in advance of approved closings to the following individuals or agencies:

Chief, Midwest City Police Department  
Chief, Midwest City Fire Department  
Field Utilities Maintenance and Construction Director/City Engineer  
All privately owned ambulance companies  
Others (list to be provided by Field Utilities Department)

- 3.7 All signs damaged or lost by the Contractor shall be replaced by him at no cost to the City. Materials shall be approved by the Project Engineer/Project Manager. All post-mounted signs shall be reset in concrete and at the proper height and location as directed by the Project Engineer/Project Manager.

**TECHNICAL SPECIFICATIONS**

**SECTION 0700**

**SUBMITTALS**

## **SECTION 0700**

### **SUBMITTALS**

#### **Description**

This section covers the requirements for submittal data for equipment and non-equipment items to be furnished on this project.

#### **General Execution**

The Contractor shall submit to the Project Manager, with such promptness as to cause no delay in his own work or in that of any other Contractor, an electronic copy of all shop drawings, manufacturer's catalog sheets, brochures, performance charts, diagrams, schedules, and other standard descriptive data required for the work. The Project Manager shall review them with reasonable promptness, making any necessary corrections. If the submittals indicate variances from the requirements of the contract, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment. Otherwise, the Contractor shall not be relieved of the responsibility of executing the work in compliance with the contract even though the submittals have been reviewed.

#### **Form of Submittals**

The submittals shall be numbered consecutively and shall present the following data as applicable:

- a) Name of project
- b) Date of submittal
- c) Reference to applicable section of specifications
- d) Applicable Standards
- e) Identification of revisions on re-submittals
- f) Kinds of materials and finishes
- g) All working and erection dimensions and clearances
- h) All arrangement and section views
- i) Connections between functional parts

The Project Engineer/Project Manager may decline to consider any submittal that does not contain complete data on the work and full information on related matters.

#### **Submittal Procedure**

The procedure for review of submittals shall be as follows:

- 1) The Contractor shall submit electronic copies of the submittal to the Project Manager for his approval through online portal. The submittal shall be accompanied by a letter of transmittal, containing the name of the project, the name of the Contractor, the number of the submittals, titles and other requirements.

- 2) When a submittal is satisfactory to the Project Manager shall provide stamped or marked "Approved" or "Approved as Noted."
- 3) Should a submittal be unsatisfactory to the Project Manager, he will provide electronic copies stating, "Revise and Resubmit". The Contractor must make such corrections and changes and submit a revised electronic copy of the re-submittal for approval. The Contractor shall review and resubmit as required by the Project Engineer/Project Manager, until acceptance is obtained.
- 4) The Contractor shall allow sufficient time for preliminary review, corrections and resubmission, and final review of all submittals. The Contractor shall allow not less than fourteen (28) days for each review. Submittals critical to job progress, when requested in writing by the Contractor, will be given priority review.

#### **List of Required Submittals**

1. List of all Subcontractors
2. Product data ALL Material.
3. Product data Shop Drawings
4. Project Construction Schedule
5. Construction Signing and Traffic Control Plan
6. AIC project certification.

**TECHNICAL SPECIFICATIONS**

**SECTION 0800**

**PROJECT MANAGEMENT**



## **SECTION 0800**

### **PROJECT MANAGEMENT**

#### **1.0 Description**

This section covers project management - individual authorities, construction scheduling, payments, inspections, and project signs.

#### **2.0 Authorities, Duties, Responsibilities**

##### **2.1 Project Engineer/Project Manager**

All work shall be done to the satisfaction of the Project Engineer/Project Manager. He shall decide all questions which arise as to quality and acceptability of materials furnished and work performed, rate of progress of the work, interpretation of the plans and specifications, acceptable fulfillment of the contract, compensation, mutual rights between Contractors under these specifications and the suspension of work. He shall determine the amount and quality of the work performed and materials furnished, and his decisions and estimates shall be final. His estimates, in such event, shall be condition precedent to the right of the Contractor to receive money due under the contract.

##### **2.2 Inspectors**

- A. Inspectors, designated by and acting under the direction of the Owner/Project Engineer/Project Manager, shall have the authority to inspect all work done and all materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. He is authorized to call to the attention of the Contractor any failure of the work or materials to conform to the plans, specifications and contract documents. He shall have the authority to reject materials or suspend the work until any situation at issue can be referred to and decided by the Project Engineer/Project Manager. These inspections are for assurance on behalf of the Owner and do not relieve the Contractor from the responsibility of controlling the quality of work or materials furnished under this contract.
- B. The Inspector is not authorized to revoke, alter or waive any requirements of the plans and specifications. He shall not act as foreman, perform other duties for the Contractor, or interfere with the management of the Contractor's work. Any advice that the Inspector may give the Contractor shall not be construed as binding the Project Engineer/Project Manager in any way nor waiving any of the terms of the Contract.

- C. If the Contractor refuses to suspend operations on verbal order of the Inspector, a written order will be presented to the Contractor by the Inspector giving the reason for suspension of work. After placing the order in the hand of the man-in-charge, the Inspector shall immediately leave the job. Work performed during the absence of the Inspector will not be accepted nor paid for and shall be removed and replaced.

2.3 Contractor

The Contractor shall become familiar with the project conditions. The Contractor is responsible for controlling all aspects of work and construction and the quality of materials and construction on the jobsite according to the Specifications. Quality Assurance inspections by the Project Engineer/Project Manager and Inspectors, and visits by other representatives of the Owner shall not relieve the Contractor from complying with the requirements of the Contract.

**3.0 Project Construction Schedule**

- 3.1 Prior to the start of construction, the Contractor shall submit to the City an electronic copy of a project construction schedule and shall not begin work until written approval from the City is received. The project completion schedule shall include anticipated time frames for each activity for each project and shall be of a "time grid diagram" format.
- 3.2 No progress payments will be made without an approved schedule.

**4.0 Prosecution of Construction**

- 4.1 The Contractor will, unless otherwise approved by the Project Manager, conduct construction on this project during normal working hours as defined below:
  - A. Normal workday shall mean normal eight-hours working day.
  - B. Normal workweek shall mean forty-hour week encompassing five 8-hours days, Monday through Friday.
  - C. Holidays to be observed and not to be included into the normal workweek will be:

New Years Day	January 1 <sup>st</sup>
Memorial Day	Observed the last Monday in May
Independence Day	July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving Day	4 <sup>th</sup> Friday in November

Christmas Eve	December 24 <sup>th</sup> (When it occurs on Monday – Thursday)
Christmas Day	December 25 <sup>th</sup>

D. Any of the above dates falling on Sunday shall be observed on the following Monday.

4.2 All work contemplated to be done not be in accordance with the normal hours will require prior approval of the Project Manager. Work, which is of necessity performed at times other than normal working hours, will not require prior approval unless construction scheduling can be arranged to prevent such conflict of time requirements. The Field Utilities Maintenance and Construction Department shall receive a request from the Contractor desiring to work weekends by noon on Thursday. If possible, the Project Manager will approve such work on a case basis and as set forth in Paragraph 4.4.

4.3 All work performed other than the normal working hours, whether scheduled or required, will in no way increase the cost to the Owner for the performance of such work.

4.4 The Contractor shall reimburse the City for any overtime inspection services performed on this project. Overtime rates shall be time and a half at the hourly wage of the designated City Inspector. Overtime shall be defined as any work that occurs outside the normal workday, or workweek, described above, for this project.

The City will bill the Contractor for said overtime services. Payment shall be paid to the City no later than 30 days from date of billing.

## 5.0 Project Signs

5.1 This item shall include the construction, painting, erection, maintenance and removal of project signs for the number of signs indicated in the construction documents at the locations specified therein. Upon completion of the project, the signs shall become the property of the Contractor.

5.2 The sign shall be constructed from 3/4 inch exterior grade plywood with one smooth side. Paint for the sign shall be a commercial grade exterior paint that will not show signs of fading during the complete construction period. If the sign fades before completion of the project, the Contractor shall repaint the sign to its original quality. Painting of the sign shall be of professional quality equivalent to commercial sign painting. Mounting posts shall be either redwood or pressure treated pine.

5.3 Mounting posts shall be buried to the depth indicated on the drawing and hand compacted in 6 inch lifts. The sign shall be attached to the mounting posts with 3 bolts per post. Bolts shall be standard grade, minimum 3/8 inch diameter with flat washers on both sides, lock washer and double nuts. Bolts shall be spaced on the

sign face between lettering so as not to obscure the wording on the sign and shall be as evenly spaced as possible.

5.4 Sign Data:

Project Name: \_\_\_\_\_  
Design Engineer: \_\_\_\_\_  
Name: \_\_\_\_\_  
City, State: \_\_\_\_\_

**NOTE: Project sign(s) will be required for this project. Location for the installation of these sign(s) will be determined by the Project Engineer/Project Manager.**

5.5 The project sign(s) shall be in place within 14 calendar days from the date the Owner awards the contract and shall remain in place during the entire construction period. The project sign(s) shall be removed within 14 calendar days after the Owner's acceptance of the project improvements.

**6.0 Payment.**

Project Management will not be measured for payment. No direct payment for the work described under this section will be made. Contractor shall include consideration for this item in the bid price for other scheduled items of the contract.

SPECIAL PROVISIONS AND  
GENERAL CONSTRUCTION NOTES

## **SPECIAL PROVISIONS**

### 1. TESTING:

- A. Cost of all material testing shall be paid by the Contractor.
- B. The cost for obtaining and providing molds and casting of the concrete test cylinders shall be paid for by the Contractor.

### 2. STAKING FOR CONSTRUCTION:

- A. The Contractor will be responsible for layout of the work and will make no changes or relocations without prior written approval of the Engineer/Project Manager. The Contractor shall provide construction grades as required on the plans.
- B. From the base lines and bench marks indicated on the plans or as provided by the Owner, the Contractor shall complete the layout of the work and shall be responsible for all measurements that may be required for the execution of the work to the location and limit marks prescribed in the specifications or on the contract drawings, subject to such modifications as the Engineer/Project Manager may require to meet changed conditions or as a result of necessary modifications to the contract work.

### 3. BLASTING/BURNING

Blasting or burning will not be permitted on this project.

### 4. SUB-SURFACE CONDITIONS:

The Contractor shall be responsible for familiarizing himself with surface and sub- surface conditions. The base bid, as shown in the proposal, shall include cost for excavation of rock and backfill with suitable compacted material, dewatering, stabilizing or removal/replacement of unsuitable soils such as quicksand or other unsuitable materials, or any hazard that may be encountered.

5. PLANS AND SPECIFICATIONS FURNISHED:

The Engineer/Project Manager will furnish the Contractor with four (4) sets of plans and specifications at no cost to the Contractor. If additional sets are required, the Contractor will be required to pay the Owner \$25.00 for each additional set.

6. RIGHTS-OF-WAY:

The necessary rights-of-way for the project will be provided by the Owner. The Contractor shall confine his construction operations to the immediate vicinity of the location shown on plans, and shall use due care in placing construction tools, equipment, excavated materials, and supplies, so as to cause the least possible damage to property and interference with traffic. The placing of such tools, equipment and materials shall be subject to the approval of the Engineer/Project Manager.

7. PROTECTION OF PUBLIC AND PRIVATE PROPERTY:

- A. The Contractor shall not enter any private property outside the designated right-of-way for material delivery or occupy for any other purpose with men, tools, equipment, construction materials or with materials excavated, without written permission from the Owner and Tenant. If it is necessary or desirable that the Contractor use land outside of the right-of-way, the Contractor shall obtain consent from and shall execute a written agreement with the landowner and tenant.
- B. The Contractor shall protect, shore, brace, support, and maintain all underground pipes, conduits, drains and other underground construction uncovered or otherwise affected by construction work performed by him. All pavement, surfacing, curbs, driveways, and walks affected by construction operations, shall be restored to their original condition as determined and approved by the Engineer/Project Manager. All replacement shall be made with new materials. Property owners will be notified by the City, prior to construction, that it will be the owner's responsibility to remove or relocate fences, trees, shrubs, or other property which they intend to keep. If the items are not removed at the time of construction and are in the way of construction, the Contractor shall remove the items and they shall be stored at the site.
- C. The Contractor shall take special care not to damage trees not directly interfering with construction and shall not remove any trees unless authorized by the Engineer/Project

Manager. Trees which are to be removed or trees which die because of construction shall be removed by the Contractor and the price shall be included in other pay items.

- D. The Contractor shall be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges and other public or private property, regardless of location or character, which may be caused by transporting equipment, materials or men to or from the work or any part of site thereof, whether by him or his subcontractors. The Contractor shall make satisfactory and acceptable arrangements, with the Owner of, or the Agency or Authority having jurisdiction over, the damaged property concerning its repair or replacement, or payment of costs incurred in connection with the damage.

#### 8. UNDERGROUND INSTALLATIONS AND ORDER OF WORK:

- A. The Contractor shall be responsible for verifying location of utilities (i.e. power poles, gas lines, T.V. lines, buried cables, etc.) public and private *even if not noted on the plans*, by calling 1-800-522-OKIE (1-800-522-6543). OKIE 811
- B. Existing underground installations such as water mains, gas mains, sewers, telephone lines, power lines, and buried structures in the vicinity of the work to be done hereunder are indicated on the plans only to the extent such information has been made available to or discovered by the Engineer/Project Manager in preparing the plans. This is no guarantee as to the accuracy or completeness of such information, and all responsibility for the accuracy or completeness thereof is expressly disclaimed. Generally, service connections are not indicated on the plans.
- C. The Contractor shall be solely responsible for locating all existing water and sewer line installations, including service connections in advance of excavating or trenching, by contacting the owners and/or residents. The Contractor shall use his own information and shall not rely upon any information shown on plans concerning existing installations.
- D. Any delay, additional work or extra cost to the Contractor caused by existing sewer and water line installations shall not constitute a claim for extra work, additional payment or damages.

#### 9. PROTECTION AND PRESERVATION OF LAND MONUMENTS AND PROPERTY

##### LINE MARKS:

The Contractor shall protect carefully from disturbance or damage all land monuments and iron pins or other markers which establish property or street lines, provided that where such monuments



or markers must, of necessity, be disturbed or removed in performance of the contract, the Contractor shall first give ample notice to the Engineer/Project Manager, so that he may witness or reference in such monuments or markers. Should the Contractor disturb, remove or damage any established land monument or property or street line mark without first giving the Engineer/Project Manager ample notice, the Engineer/Project Manager may, at his option, deduct the cost of reestablishing such monuments or marks from any monies due or to become due the Contractor.

#### 10. SANITARY PROVISIONS:

The Contractor shall establish and enforce among his employees such regulations in regard to cleanliness and the disposal of garbage and waste as will tend to prevent the inception and spread of contagious or infectious diseases and to effectively prevent the creation of a nuisance about the work or any property, either public or private; and such regulations as are required by the Engineer/Project Manager shall be put into effect immediately by the Contractor. The necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such manner and at such points as may be approved by the Engineer/Project Manager, and their use shall be strictly enforced by the Contractor. All City, State, and Federal sanitary laws and regulations shall be strictly complied with.

#### 11. POWER:

All power for lighting, operation of Contractor's plant or equipment, or other use by the Contractor, shall be provided by the Contractor at his sole cost and expense.

#### 12. HAZARDS CAUSED BY CONSTRUCTION:

- A. The Contractor shall be held entirely responsible for any and all hazardous conditions whatsoever created or aggravated by the prosecution of the work and shall exercise every care and take all necessary and prudent precautions and safety measures to prevent injuries or damages to any person or persons or property. The Owner and its officers, agents, or employees will not be responsible for the Contractor's failure to provide the required, necessary, and adequate precautions and provisions to protect persons and property; it shall be entirely the responsibility of the Contractor to ensure that all such precautions have been taken.
- B. It is the Contractor's responsibility to see that work is carried out in a safe manner. The Contractor and his Surety shall indemnify and save harmless the Owner and all its officers, agents, or employees from all suits, actions, or claims of any character, name, and

description brought forth on account of any injuries of any character or damages received by any person, persons, or property, by or in consequence or on account of any act or omission, neglect, or use of improper, insufficient, or unsafe methods, materials or equipment in the prosecution of the work.

13. PAY ITEMS - INCIDENTAL CONSTRUCTION:

The Contractor shall be paid only for those items which are listed in the proposal, or which are added to the job through a change order. All construction or removal considerations which are not listed as a separate item shall be considered as incidental construction. Cost for these items shall be considered in the most appropriate item listed in the pay quantities.

14. SPECIFICATIONS INCORPORATED BY REFERENCE:

Where other specifications are cited (such as Standard Specifications for Highway Construction; Oklahoma State Department of Transportation, AASHTO, etc.,) then the latest edition of these specifications shall be deemed fully incorporated by reference.

15. SALVAGED MATERIALS:

Determination of materials to be salvaged shall be made by the Engineer/Project Manager. The Contractor shall carefully remove all salvageable materials. They shall be delivered to the Midwest City Municipal Authority's Public Works Yard. All non-salvageable material shall become the property of the Contractor and shall be properly disposed of by the Contractor. This activity is not a pay item and work herein is to be included in price bid for other items of work. Upon request from the Contractor, waste material from the project may be hauled to the Midwest City Municipal Authority Landfill by the Contractor. The landfill tipping fees will be waived by the City.

16. OMISSIONS:

- A. In the event that the specifications inadvertently omit some of the usual customary work, auxiliary equipment, or material required for satisfactory installation and operation of all equipment, the Contractor shall provide these items as specified by the Engineer/Project Manager at his own expense. The Contractor is assumed to be experienced and qualified in this type of work and is to furnish materials suitable for the contract.

- B. If the specifications inadvertently fail to contain a specification for work to be done and material to be furnished, then the Standard Current Specification or Requirements of the AWWA, ASTM, ASME, ASEE, NBFU, OSDH, or NEC shall apply. Should the above specifications not apply, then the work done, equipment or material furnished shall be as specified by the Engineer/Project Manager.

#### 17. MATERIALS AND EQUIPMENT SPECIFIED BY TRADE NAME/MANUFACTURER:

Where any equipment or material is referred to or specified by trade name, produced by one manufacturer only, it shall be construed as including any other equipment or material meeting the "Or Equal" clause of the General conditions for this project.

#### 18. PERMITS:

- A. The City is required to comply with all applicable building codes for its construction activities. General Clauses 7, 10, and 35, and Special Provisions 14 and 16 transfer this requirement to the Contractor.

The Contractor will apply for a building permit with the License & Permit Division. The fees for the permit and inspections are waived; such costs will be borne by the City.

To verify compliance with the building codes, the License & Permit Division Official will inspect various activities. The results of these code-compliance inspections are subject to approval by the Construction Inspector for contract compliance since the building inspectors are not familiar with specific contract requirements.

In all cases, the most stringent requirements apply. Questions as to specific requirements for the contract should be directed to the Construction Inspector who will resolve conflicts with the building inspectors. The building inspectors are not authorized to relieve the Contractor from the requirements of the contract.

The Contractor shall contact the License & Permit Division directly to schedule the appropriate inspections. The Contractor will inform the Construction Inspector of which code-compliance inspections have been requested.

- B. Permits for placing fill or waste materials at any location within the City limits are required by current City Code. The contractor shall secure such a permit prior to placing any fill or waste within the City limits.

19. WATER USAGE:

The Contractor shall pay for all domestic water (construction office use, etc.) required during the construction project. The Contractor shall pay for all costs including meter deposit and all construction costs required for the installation thereof. Application for water service shall be made to the Midwest City Municipal Authority.

The Contractor shall not pay for water necessary for the construction project such as for grassing, filling and testing of water mains and other construction related uses as approved by the Engineer/Project Manager. The Contractor shall pay a deposit for a construction meter (fire hydrant type) for water needed for other than domestic usage. This deposit and meter pick-up shall be arranged through the Midwest City Municipal Authority. The meter shall be returned upon completion of the project and a deposit refund made.

20. INDEPENDENT CONTRACTOR STATUS

The Contractor shall accomplish the work according to the terms of this contract as an independent contractor. The contractor agrees to conduct himself in a manner consistent with such status and further agrees that the Contractor, its officials, agents and employees will neither hold themselves out as, or claim to be, an official, agent or employee of the Midwest City Municipal Authority by reason of this agreement.