



**INVITATION TO BID
BID # 2021-002**

**Pavement Rehabilitation and Restriping Various
Streets**

NMDOT Control No: L500326

BID OPENING DATE/TIME/PLACE:

Thursday, August 26, 2021 at 2:00 pm

City of Bloomfield Council Chambers
915 N. First Street
Bloomfield, NM 87413

NON-MANDATORY PRE-BID MEETING / SITE VISIT

Tuesday, August 17, 2021 at 10:00 am

City of Bloomfield Council Chambers
915 N. First Street
Bloomfield, NM 87413

For further information contact:

Jason Thomas, PE
Assistant City Manager
City of Bloomfield
Phone: 505-333-7816
Email: jthomas@bloomfieldnm.gov

BIDDING PROCEDURES AND CONSTRUCTION CONTRACT DOCUMENTS
FOR
PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS

TABLE OF CONTENTS

TITLE	PAGE
Advertisement for Bids	C-111-1
Instructions to Bidders	C-200-1
Bid Form	C-410-1
Bid Bond	C-430-1
Subcontractors Listing And WSD (DOL) Registration.....	C-440-1
Bidders Qualifications Statement	C-451-1
Certification Regarding Debarment	C-455-1
Non-Collusion Affidavit	C-460-1
Campaign Contribution Disclosure Form	C-465-1
Notice of Award	C-510-1
Form of Agreement between Owner and Contractor	C-520-1
Notice to Proceed	C-550-1
Performance Bond.....	C-610-1
Payment Bond	C-615-1
Contractor's Application for Payment	C-620-1
Certificate of Substantial Completion	C-625-1
Standard General Conditions of the Construction Contract	C-700-1
Supplementary Conditions	C-800-1
Work Change Directive	C-940-1
Contract Change Order	C-941-1
Field Order	C-942-2

PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS

TABLE OF CONTENTS (continued)

TITLE	PAGE
NMDOT Standard Specification Section 207: Subgrade Preparation.....	119
NMDOT Standard Specification Section 303: Base Course	130
NMDOT Standard Specification Section 408: Prime Coat.....	175
NMDOT Special Provision Section 410: Surface Treatment.....	410-1
NMDOT Standard Specification Section 416: Minor Paving.....	202
NMDOT Standard Specification Section 417: Miscellaneous Paving.....	206
NMDOT Standard Specification Section 601: Removal of Structures and Obstructions.....	605
NMDOT Standard Specification Section 618: Traffic Control Management.....	681
NMDOT Standard Specification Section 621: Mobilization.....	692
NMDOT Standard Specification 701: Traffic Signs and Sign Structures.....	752
NMDOT Standard Specification 702: Construction Traffic Control Devices	767
NMDOT Standard Specification 704: Pavement Markings.....	780
NMDOT Standard Specification 721: Pavement Marking Removal.....	908

ATTACHMENTS	No.
Workforce Solutions Wage Decision, Project Requirements, Wage Rates.....	1

Related to EJCDC Documents:

“Copyright© 2018 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.”

ADVERTISEMENT FOR BIDS
CITY OF BLOOMFIELD
BLOOMFIELD, NM
PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS
NMDOT CN L500326

General Notice

The City of Bloomfield (Owner) is requesting Bids for the construction of the following Project:

PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS
ITB/Project Number: 2021-002

Bids for the construction of the Project will be received at the City of Bloomfield, Council Chambers located at 915 N. First Street, Bloomfield, NM 87413, until **Thursday, August 26, 2021 at 2:00 pm.** local time. At that time the Bids received will be publicly opened and read.

The Project includes the following Work:

Pavement Rehabilitation and Chip Sealing of North and South Church, restriping West Blanco Blvd to accommodate bike lanes, marking crosswalks, and restriping various streets.

Obtaining the Bidding Documents

Information and Bidding Documents for the Project can be found at the following designated website:

<https://www.bloomfieldnm.gov/procurement.html>

Bidding Documents may be downloaded from the designated website. Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

Pre-bid Conference

A **non-mandatory** pre-bid conference for the Project will be held on **Tuesday, August 17, 2021 at 10:00 am** at the City of Bloomfield Council Chambers, 915 N. First Street, Bloomfield, NM 87413

Instructions to Bidders.

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

This project is partially funded with NMDOT LGRF funds, and therefore, must comply with the LGRF Agreement between the Owner and NMDOT, and all NMDOT specifications referenced herein.

This Advertisement is issued by:

City of Bloomfield

By: Jason Thomas

Title: Assistant City Manager

Date: Sunday, August 08, 2021

INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1— Defined Terms.....	1
Article 2— Bidding Documents	1
Article 3— Qualifications of Bidders.....	2
Article 4— Pre-Bid Conference	3
Article 5— Site and Other Areas; Existing Site Conditions; Examination of Site; Owner’s Safety Program; Other Work at the Site.....	3
Article 6— Bidder’s Representations and Certifications.....	5
Article 7— Interpretations and Addenda	5
Article 8— Bid Security	5
Article 9— Contract Times	6
Article 10— Substitute and “Or Equal” Items.....	6
Article 11— Subcontractors, Suppliers, and Others	6
Article 12— Preparation of Bid	7
Article 13— Basis of Bid	8
Article 14— Submittal of Bid.....	8
Article 15— Modification and Withdrawal of Bid.....	8
Article 16— Opening of Bids	9
Article 17— Bids to Remain Subject to Acceptance	9
Article 18— Evaluation of Bids and Award of Contract	9
Article 19— Bonds and Insurance.....	10
Article 20— Signing of Agreement.....	10
Article 21— Sales and Use Taxes	10
Article 22— Contracts to Be Assigned	10

ARTICLE 1—DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office*—The office from which the Bidding Documents are to be issued, and which registers plan holders.

ARTICLE 2—BIDDING DOCUMENTS

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.
- 2.04 *Electronic Documents*
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.
1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version 2017 or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.
- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.04 above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and

reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

- C. After the Contract is awarded, the Owner will provide or direct the Engineer to provide for the use of the Contractor documents that were developed by Engineer as part of the Project design process, as Electronic Documents in native file formats.
 - 1. Electronic Documents that are available in native file format include:
 - a. AutoCAD files
 - 2. Release of such documents will be solely for the convenience of the Contractor. No such document is a Contract Document.
 - 3. Unless the Contract Documents explicitly identify that such information will be available to the Successful Bidder (Contractor), nothing herein will create an obligation on the part of the Owner or Engineer to provide or create such information, and the Contractor is not entitled to rely on the availability of such information in the preparation of its Bid or pricing of the Work. In all cases, the Contractor shall take appropriate measures to verify that any electronic/digital information provided in Electronic Documents is appropriate and adequate for the Contractor's specific purposes.
 - 4. In no case will the Contractor be entitled to additional compensation or time for completion due to any differences between the actual Contract Documents and any related document in native file format.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

- 3.01 Bidder is to submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work:
 - A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.
 - B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
 - C. Bidder's state or other contractor license number, if applicable.
 - D. Subcontractor and Supplier qualification information.
 - E. Other required information regarding qualifications.

- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

ARTICLE 4—PRE-BID CONFERENCE

- 4.01 A **non-mandatory** pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. Bidders must sign in using the name of the organization that will be submitting a Bid. A list of qualified Bidders that attended the pre-bid conference and are eligible to submit a Bid for this Project will be issued in an Addendum.
- 4.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

5.01 Site and Other Areas

- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

5.02 Existing Site Conditions

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those drawings known to Owner 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.
 - c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the

Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.

4. *Geotechnical Baseline Report/Geotechnical Data Report*: Not used for this project.

B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Other Site-related Documents*

A. No other Site-related documents are available.

5.04 *Site Visit and Testing by Bidders*

A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.

B. A Site visit is scheduled following the pre-bid conference. Maps to the Site will be available at the pre-Bid conference.

C. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.

D. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

E. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.

F. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.05 *Owner's Safety Program*

A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

5.06 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Express Representations and Certifications in Bid Form, Agreement*

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder’s examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

ARTICLE 7—INTERPRETATIONS AND ADDENDA

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Owner in writing. Contact information and submittal procedures for such questions are as follows:
 - A. Jason Thomas, Assistant City Manager, by e-mail only: jthomas@bloomfieldnm.gov.
- 7.03 Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven days prior to the date for opening of Bids may not be answered.
- 7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

ARTICLE 8—BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five (5) percent of Bidder’s maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may

consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.

- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.
- 9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS

- 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 11.01 A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 11.02 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed for all portions of the Work **with the bid**.
- 11.03 if requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, without an increase in Bid price.
- 11.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security

of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.

ARTICLE 12—PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
 - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder’s name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.

- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

13.01 *Unit Price*

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 14—SUBMITTAL OF BID

- 14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted

prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.

- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

ARTICLE 16—OPENING OF BIDS

- 16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 18.05 *Evaluation of Bids*
 - A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
 - B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

- 18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

ARTICLE 19—BONDS AND INSURANCE

- 19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.
- 19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

ARTICLE 20—SIGNING OF AGREEMENT

- 20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 21—NEW MEXICO GROSS RECEIPTS TAX

- 21.01 New Mexico New Mexico Statutes requires that the bid amount (unit prices) exclude the applicable state gross receipts tax or applicable local option tax but that the contracting agency (owner) shall be required to pay the applicable tax including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable gross receipts tax or applicable local option tax shall be shown as a separate amount on each billing or request for payment made under the contract.

ARTICLE 22—CONTRACTS TO BE ASSIGNED – NOT USED

BID FORM FOR CONSTRUCTION CONTRACT

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

ARTICLE 1—OWNER AND BIDDER

- 1.01 This Bid is submitted to: **City of Bloomfield, 915 N. First Street, Bloomfield, NM 87413**
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2—ATTACHMENTS TO THIS BID

- 2.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;
 - B. List of Proposed Subcontractors (Use C-440);
 - C. List of Proposed Suppliers;
 - D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such authority within the time for acceptance of Bids;
 - E. Contractor's license number as evidence of Bidder's State Contractor's License or a covenant by Bidder to obtain said license within the time for acceptance of Bids;
 - F. Required Bidder Qualification Statement with supporting data; and

ARTICLE 3—BASIS OF BID—UNIT PRICES

- 3.01 *Unit Price Bids*
- A. Bidder will perform the following Work at the indicated unit prices:

ITEM NO.	ITEM DESCRIPTION	ITEM UNIT	ESTIMATED QUANTITY	BID UNIT PRICE	BID AMOUNT
207000	SUBGRADE PREPARATION	S.Y.	2000		
303180	BASE COURSE 8"	S.Y.	2000		
408100	PRIME COAT MATERIAL	TON	4		
410010	ONE COURSE SURFACE TREATMENT	S.Y.	8500		
410020	TWO COURSE SURFACE TREATMENT	S.Y.	7200		
416107	MINOR PAVING TYPE I, HMA SP-IV	S.Y.	2000		
417000	MISCELLANEOUS PAVING *	S.Y.	50		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1		
601110	REMOVAL OF SURFACING	S.Y.	2000		
618000	TRAFFIC CONTROL MANAGEMENT	LS	1		
621000	MOBILIZATION	LS	1		
701000	PANEL SIGNS	S.F.	100		
701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	L.F.	230		
702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	LS	1		
704000	RETROREFLECTORIZED PAINTED MARKINGS 4"	L.F.	135980		
704002	RETROREFLECTORIZED PAINTED MARKINGS 6"	L.F.	51220		
704005	RETROREFLECTORIZED PAINTED MARKINGS 24"	L.F.	5940		
704007	RETROREFLECTORIZED PAINTED MARKING COMBINATION (THRU AND RIGHT) ARROW	EACH	2		
704008	RETROREFLECTORIZED PAINTED MARKING COMBINATION (THRU AND LEFT) ARROW	EACH	1		
704010	RETROREFLECTORIZED PAINTED MARKING LEFT ARROW	EACH	2		
704012	RETROREFLECTORIZED PAINTED MARKING WORD (ONLY)	EACH	1		
704021	RETROREFLECTORIZED PAINTED MARKING WORD (STOP)	EACH	4		
704024	RETROREFLECTORIZED PAINTED MARKING BIKE SYMBOL (BIKEWAY)	EACH	31		
704034	RETROREFLECTORIZED PAINTED MARKING SHARROW SYMBOL	EACH	3		
721000	REMOVAL OF PAVEMENT MARKING	L.F.	14610		
TOTAL ALL BID ITEMS					

* Note: Area for Miscellaneous Paving not shown on plans. Use at Owner's Direction.

B. Bidder acknowledges that:

1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 4—TIME OF COMPLETION

- 4.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 4.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 5—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

5.01 *Bid Acceptance Period*

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

5.02 *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

5.03 *Receipt of Addenda*

- A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Bidder's Representations*

- A. In submitting this Bid, Bidder represents the following:
1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
 2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the

Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
 - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.

- b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
- c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
- d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

BIDDER hereby submits this Bid as set forth above:

Bidder:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

Address for giving notices:

Bidder's Contact:

Name:

(typed or printed)

Title:

(typed or printed)

Phone:

Email:

Address:

Bidder's Contractor License No.: (if applicable) _____

Bidder's WSD Registration No.: **(REQUIRED FOR BIDS OVER \$60,000)** _____

(Reference: 13-4-13.1 NMSA 1978)

BID BOND (PENAL SUM FORM)

Bidder Name: [Full formal name of Bidder] Address <i>(principal place of business)</i> : [Address of Bidder's principal place of business]	Surety Name: [Full formal name of Surety] Address <i>(principal place of business)</i> : [Address of Surety's principal place of business]
Owner Name: City of Bloomfield Address <i>(principal place of business)</i> : 915 N. First Street, Bloomfield, NM 87413	Bid Project <i>(name and location)</i> : [Owner project/contract name, and location of the project] Bid Due Date: [Enter date bid is due]
Bond Penal Sum: Five Percent (5%) of the Bid 5% of the Total Bid: _____ Date of Bond: [Date]	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder	Surety
_____ <i>(Full formal name of Bidder)</i>	_____ <i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <i>(Signature)</i>	By: _____ <i>(Signature) (Attach Power of Attorney)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
Attest: _____ <i>(Signature)</i>	Attest: _____ <i>(Signature)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
<i>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</i>	

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

C-440

SUBCONTRACTOR'S LISTING AND WSD (DOL) REGISTRATION

This Public Works Project is subject to the provisions of the Subcontractors Fair Practices Act (Chapter 18, Laws of 1988; Sections 13-4-31 through 13-4-43 NMSA 1978) as it may be amended.

- A. The listing threshold is : \$5000
- B. List of Subcontractors Required: The Bidder shall define the categories of subcontractors in the bid and shall list on page 0.10-2 of the Bid Proposal, no more than one subcontractor for each such category, PROVIDED HOWEVER, that such listing shall not include subcontractors whose work does not exceed the threshold dollar amount given in the subparagraph A, above. Such list shall give the name and location of the place of business of each subcontractor under subcontract to the Bidder who will perform work or labor or render service to the Bidder in an amount exceeding the threshold stated in subparagraph A.
- C. All subcontractors whose estimated work exceeds the threshold shall be listed at the time the Bid is submitted to OWNER.
- D. The apparent low Bidder may allow a subcontractor that exceeds the threshold amount to be voluntarily assigned or transferred or to be performed by anyone other than the original subcontractor listed in the original bid only if the OWNER, , gives prior written approval.
- E. No Bidder whose Bid is accepted shall sublet or subcontract any portion of the Work in an amount exceeding the threshold amount given in subparagraph A, above, where the original bid did not designate a subcontractor, unless:
 - 1. the Bidder received no bid for that category (note: the Bidder must designate on the list of subcontractors required in subparagraph B, above, that "no bid was received"), or
 - 2. the work is pursuant to a Change Order that causes changes or deviations from the original Contract.
- F. Delays Attributable to Hearings Required by the Subcontractors Fair Practices Act: In the event a hearing is required pursuant to the provisions of the Subcontractors Fair Practices Act and a delay in the Work is caused as a result of a subcontractor protesting its substitution, the CONTRACTOR shall not be entitled to an increase in the Contract Price or Contract Time.

<u>Trade</u>	<u>Firm Name, Address, and Phone #</u>	<u>WSD Registration No.</u>	<u>Dollar Amount</u>

QUALIFICATIONS STATEMENT

ARTICLE 1—GENERAL INFORMATION

1.01 Provide contact information for the Business:

Legal Name of Business:			
Corporate Office			
Name:		Phone number:	
Title:		Email address:	
Business address of corporate office:			
Local Office			
Name:		Phone number:	
Title:		Email address:	
Business address of local office:			

1.02 Provide information on the Business's organizational structure:

Form of Business:	<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation		
<input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Joint Venture comprised of the following companies:			
1.			
2.			
3.			
Provide a separate Qualification Statement for each Joint Venturer.			
Date Business was formed:		State in which Business was formed:	
Is this Business authorized to operate in the Project location?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Pending	

1.03 Identify all businesses that own Business in whole or in part (25% or greater), or that are wholly or partly (25% or greater) owned by Business:

Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			

Name of business:		Affiliation:	
Address:			

1.04 Provide information regarding the Business's officers, partners, and limits of authority.

Name:		Title:	
Authorized to sign contracts:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Limit of Authority:	\$
Name:		Title:	

ARTICLE 2—LICENSING

2.01 Provide information regarding licensure for Business:

Name of License:			
Licensing Agency:			
License No:		Expiration Date:	
Name of License:			
Licensing Agency:			
License No:		Expiration Date:	

ARTICLE 3—DIVERSE BUSINESS CERTIFICATIONS

3.01 Provide information regarding Business's Diverse Business Certification, if any. Provide evidence of current certification.

Certification	Certifying Agency	Certification Date
<input type="checkbox"/> Disadvantaged Business Enterprise		
<input type="checkbox"/> Minority Business Enterprise		
<input type="checkbox"/> Woman-Owned Business Enterprise		
<input type="checkbox"/> Small Business Enterprise		
<input type="checkbox"/> Disabled Business Enterprise		
<input type="checkbox"/> Veteran-Owned Business Enterprise		
<input type="checkbox"/> Service-Disabled Veteran-Owned Business		
<input type="checkbox"/> HUBZone Business (Historically Underutilized) Business		

<input type="checkbox"/> Other			
<input type="checkbox"/> None			

ARTICLE 4—SAFETY

4.01 Provide information regarding Business's safety organization and safety performance.

Name of Business's Safety Officer:			
Safety Certifications			
Certification Name	Issuing Agency		Expiration

4.02 Provide Worker's Compensation Insurance Experience Modification Rate (EMR), Total Recordable Frequency Rate (TRFR) for incidents, and Total Number of Recorded Manhours (MH) for the last 3 years and the EMR, TRFR, and MH history for the last 3 years of any proposed Subcontractor(s) that will provide Work valued at 10% or more of the Contract Price. Provide documentation of the EMR history for Business and Subcontractor(s).

Year									
Company	EMR	TRFR	MH	EMR	TRFR	MH	EMR	TRFR	MH

ARTICLE 5—FINANCIAL

5.01 Provide information regarding the Business's financial stability. Provide the most recent audited financial statement, and if such audited financial statement is not current, also provide the most current financial statement.

Financial Institution:			
Business address:			
Date of Business's most recent financial statement:		<input type="checkbox"/> Attached	
Date of Business's most recent audited financial statement:		<input type="checkbox"/> Attached	
Financial indicators from the most recent financial statement			
Contractor's Current Ratio (Current Assets ÷ Current Liabilities)			
Contractor's Quick Ratio ((Cash and Cash Equivalents + Accounts Receivable + Short Term Investments) ÷ Current Liabilities)			

ARTICLE 6—SURETY INFORMATION

- 6.01 Provide information regarding the surety company that will issue required bonds on behalf of the Business, including but not limited to performance and payment bonds.

Surety Name:			
Surety is a corporation organized and existing under the laws of the state of:			
Is surety authorized to provide surety bonds in the Project location?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is surety listed in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" published in Department Circular 570 (as amended) by the Bureau of the Fiscal Service, U.S. Department of the Treasury? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 7—INSURANCE

- 7.01 Provide information regarding Business's insurance company(s), including but not limited to its Commercial General Liability carrier. Provide information for each provider.

Name of insurance provider, and type of policy (CLE, auto, etc.):			
Insurance Provider		Type of Policy (Coverage Provided)	
Are providers licensed or authorized to issue policies in the Project location?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does provider have an A.M. Best Rating of A-VII or better?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 8—CONSTRUCTION EXPERIENCE

8.01 Provide information that will identify the overall size and capacity of the Business.

Average number of current full-time employees:	
Estimate of revenue for the current year:	
Estimate of revenue for the previous year:	

8.02 Provide information regarding the Business's previous contracting experience.

Years of experience with projects like the proposed project:				
As a general contractor:		As a joint venturer:		
Has Business, or a predecessor in interest, or an affiliate identified in Paragraph 1.03:				
Been disqualified as a bidder by any local, state, or federal agency within the last 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Been barred from contracting by any local, state, or federal agency within the last 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Been released from a bid in the past 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Defaulted on a project or failed to complete any contract awarded to it? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Refused to construct or refused to provide materials defined in the contract documents or in a change order? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Been a party to any currently pending litigation or arbitration? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Provide full details in a separate attachment if the response to any of these questions is Yes.				

8.03 List all projects currently under contract in Schedule A and provide indicated information.

8.04 List a minimum of three and a maximum of six projects completed in the last 5 years in Schedule B and provide indicated information to demonstrate the Business's experience with projects similar in type and cost of construction.

8.05 In Schedule C, provide information on key individuals whom Business intends to assign to the Project. Provide resumes for those individuals included in Schedule C. Key individuals include the Project Manager, Project Superintendent, Quality Manager, and Safety Manager. Resumes may be provided for Business's key leaders as well.

ARTICLE 9—REQUIRED ATTACHMENTS

9.01 Provide the following information with the Statement of Qualifications:

- A. If Business is a Joint Venture, separate Qualifications Statements for each Joint Venturer, as required in Paragraph 1.02.
- B. Diverse Business Certifications if required by Paragraph 3.01.
- C. Certification of Business's safety performance if required by Paragraph 4.02.
- D. Financial statements as required by Paragraph 5.01.

- E. Attachments providing additional information as required by Paragraph 8.02.
- F. Schedule A (Current Projects) as required by Paragraph 8.03.
- G. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 8.04.
- H. Schedule C (Key Individuals) and resumes for the key individuals listed, as required by Paragraph 8.05.
- I. Additional items as pertinent.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

This Statement of Qualifications is offered by:

Business:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(date signed)

(If Business is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

Schedule A—Current Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule B—Previous Experience with Similar Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule B—Previous Experience with Similar Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule C—Key Individuals

Project Manager			
Name of individual			
Years of experience as project manager			
Years of experience with this organization			
Number of similar projects as project manager			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
Project Superintendent			
Name of individual			
Years of experience as project superintendent			
Years of experience with this organization			
Number of similar projects as project superintendent			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

Safety Manager			
Name of individual			
Years of experience as project manager			
Years of experience with this organization			
Number of similar projects as project manager			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
Quality Control Manager			
Name of individual			
Years of experience as project superintendent			
Years of experience with this organization			
Number of similar projects as project superintendent			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

C-455

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

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

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

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

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

C-460

**NON-COLLUSION AFFIDAVIT
TO BE EXECUTED BY EACH AWARDEE OF A PRINCIPAL
CONTRACT**

_____, being first duly sworn, deposes and says that he is

(sole owner, a partner, president, secretary, etc.)

of _____
the party making the foregoing bid; that such a bid is not made in the interest of or on behalf of any undisclosed person, partnership, company association, organization, or corporation; that such a bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, nor that anyone shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of said bidder or of any other bidder, nor to fix any overhead, profit, or cost element of such bid price, nor of that of any other bidder, nor to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true; and, further, that said bidder has not directly or indirectly, submitted his bid price or any breakdown thereof, nor the contents thereof, nor divulged information or data relative thereto, nor paid and will not pay fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, nor any member or agent thereof, nor any to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

Signed:

By: _____

Title: _____

Subscribed and sworn before me this _____ day of _____, 20__

Seal of Notary

Notary Public

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective Proposer seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective Proposer must disclose whether they, a family member or a representative of the prospective Proposer has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the Proposer submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the Proposer signs the contract, if the aggregate total of contributions given by the prospective Proposer, a family member or a representative of the prospective Proposer to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective Proposer, a family member of the prospective Proposer, or a representative of the prospective Proposer gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective Proposer fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective Proposer.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE PROPOSER WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective Proposer is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective Proposer, if the prospective Proposer is a natural person; or (b) an owner of a prospective Proposer.

"Pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Prospective Proposer" means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

"Representative of a prospective Proposer" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective Proposer.

Name(s) of Applicable Public Official(s) if
any: _____

(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE PROPOSER:

Contribution Made By: Relation to Prospective Proposer: _____

Date Contribution(s) Made: ____

Amount(s) of Contribution(s)

Nature of Contribution(s)

Purpose of Contribution(s)

(Attach extra a pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member, or representative.

Signature

Date

Title (Position)

NOTICE OF AWARD

Date of Issuance:

Owner:

Owner's Project No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

Bidder:

Bidder's Address:

You are notified that Owner has accepted your Bid dated [] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS

The Contract Price of the awarded Contract is \$[]. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

[] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☐ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner [] counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): []

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: **City of Bloomfield, 915 N. First Street, Bloomfield, NM 87413**

By (signature): _____

Name (printed): _____

Title: _____

Copy: Engineer

EJCDC® C-510, Notice of Award.

Copyright© 2018 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the City of Bloomfield (“Owner”) and _____ (“Contractor”).

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Pavement Rehabilitation and Chip Sealing of North and South Church, restriping West Blanco Blvd to accommodate bike lanes, marking crosswalks, and restriping various streets.**

THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Pavement Rehabilitation and Chip Sealing of North and South Church, restriping West Blanco Blvd to accommodate bike lanes, marking crosswalks, and restriping various streets.**

ENGINEER

- 3.01 The Owner will assume all duties and responsibilities of Engineer during construction, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The plans have been prepared by Souder, Miller, & Associates.

ARTICLE 2—CONTRACT TIMES

4.01 *Time is of the Essence*

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

4.02 *Contract Times: Days*

- A. The Work will be substantially complete within sixty (60) days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within ninety (90) days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration

proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion*: Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 3—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 4—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the 5th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 100 percent of the value of the Work completed (with the balance being retainage).
 - b. 100 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of zero (0) percent per annum.

ARTICLE 5—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - 3. General Conditions.
 - 4. Supplementary Conditions.
 - 5. Specifications as listed in the table of contents of the project manual (copy of list attached).
 - 6. The Contractor's Bid.
 - 7. Drawings (not attached but incorporated by reference) consisting of a full plan set as prepared and sealed by Souder, Miller & Associates with each sheet bearing the following general title:

PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS

- 8. Addenda (numbers _____ to _____, inclusive).
- 9. Exhibits to this Agreement (enumerated as follows):
 - a. Attachment 1 – Workforce Solutions Wage Decision, Project Requirements, Wage Rates.
- 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 6—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 - 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 - 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Owner:

Contractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

License No.: _____
(where applicable)

State: _____

NOTICE TO PROCEED

Owner: _____ Owner's Project No.: _____
Engineer: _____ Engineer's Project No.: _____
Contractor: _____ Contractor's Project No.: _____
Project: _____
Contract Name: _____
Effective Date of Contract: _____

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on _____ pursuant to Paragraph 4.01 of the General Conditions.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement:

The number of days to achieve Substantial Completion is sixty (60) days from the date stated above for the commencement of the Contract Times, resulting in a date for Substantial Completion of _____; and the number of days to achieve readiness for final payment is ninety (90) days from the commencement date of the Contract Times, resulting in a date for readiness for final payment of _____.

Before starting any Work at the Site, Contractor must comply with the following:

Owner: _____ City of Bloomfield
By (signature): _____
Name (printed): _____
Title: _____
Date Issued: _____
Copy: Engineer

PERFORMANCE BOND

Contractor Name: _____ Address (principal place of business): _____	Surety Name: _____ Address (principal place of business): _____
Owner Name: City of Bloomfield Mailing address (principal place of business): 915 North First Street, Bloomfield, NM 87413	Contract Description (name and location): <p style="text-align: center;">PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS</p> Contract Price: _____ Effective Date of Contract: _____
Bond Bond Amount: _____ Date of Bond: _____ <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 16	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
_____ <i>(Full formal name of Contractor)</i>	_____ <i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	By: _____ <div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
<i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- 6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
- 7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- 8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
- 9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
- 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
- 11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
- 12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
- 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: None.

PAYMENT BOND

Contractor Name: _____ Address (principal place of business): _____	Surety Name: _____ Address (principal place of business): _____
Owner Name: City of Bloomfield Mailing address (principal place of business): 915 N. First Street, Bloomfield, NM 87413	Contract Description (name and location): PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS Contract Price: _____ Effective Date of Contract: _____
Bond Bond Amount: _____ Date of Bond: _____ <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	By: _____ <div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;

- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: None.

Contractor's Application for Payment

Unit Price

Progress Estimate - Unit Price Work

Contractor's Application for Payment

Owner:		Owner's Project No.:	
Engineer:		Engineer's Project No.:	
Contractor:		Contractor's Project No.:	
Project:			
Contract:			

Application No.:			Application Period:	From	to		Application Date:				
A	B	C	D	E	F	G	H	I	J	K	L
Bid Item No.	Description	Contract Information				Work Completed		Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)
		Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E) (\$)	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) (\$)				
Change Orders											
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-
					-		-		-		-

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:
Engineer:
Contractor:
Project:
Contract Name:

Owner's Project No.:
Engineer's Project No.:
Contractor's Project No.:

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion: _____

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: ☐ None ☐ As follows:

Amendments to Contractor's Responsibilities: ☐ None ☐ As follows:

The following documents are attached to and made a part of this Certificate:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By (signature): _____

Name (printed): _____

Title: _____

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1—Definitions and Terminology.....	1
1.01 Defined Terms.....	1
1.02 Terminology	6
Article 2—Preliminary Matters	7
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance.....	7
2.02 Copies of Documents	7
2.03 Before Starting Construction	7
2.04 Preconstruction Conference; Designation of Authorized Representatives	8
2.05 Acceptance of Schedules	8
2.06 Electronic Transmittals	8
Article 3—Contract Documents: Intent, Requirements, Reuse.....	9
3.01 Intent.....	9
3.02 Reference Standards.....	9
3.03 Reporting and Resolving Discrepancies	10
3.04 Requirements of the Contract Documents.....	10
3.05 Reuse of Documents	11
Article 4—Commencement and Progress of the Work	11
4.01 Commencement of Contract Times; Notice to Proceed	11
4.02 Starting the Work.....	11
4.03 Reference Points	11
4.04 Progress Schedule	12
4.05 Delays in Contractor’s Progress	12
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions	13
5.01 Availability of Lands	13
5.02 Use of Site and Other Areas.....	14
5.03 Subsurface and Physical Conditions.....	15
5.04 Differing Subsurface or Physical Conditions	16

5.05	Underground Facilities	17
5.06	Hazardous Environmental Conditions at Site	19
Article 6—Bonds and Insurance.....		21
6.01	Performance, Payment, and Other Bonds	21
6.02	Insurance—General Provisions	22
6.03	Contractor’s Insurance.....	24
6.04	Builder’s Risk and Other Property Insurance	25
6.05	Property Losses; Subrogation	25
6.06	Receipt and Application of Property Insurance Proceeds	27
Article 7—Contractor’s Responsibilities		27
7.01	Contractor’s Means and Methods of Construction	27
7.02	Supervision and Superintendence	27
7.03	Labor; Working Hours	27
7.04	Services, Materials, and Equipment	28
7.05	“Or Equals”	28
7.06	Substitutes	29
7.07	Concerning Subcontractors and Suppliers.....	31
7.08	Patent Fees and Royalties.....	32
7.09	Permits	33
7.10	Taxes	33
7.11	Laws and Regulations.....	33
7.12	Record Documents.....	33
7.13	Safety and Protection	34
7.14	Hazard Communication Programs	35
7.15	Emergencies	35
7.16	Submittals	35
7.17	Contractor’s General Warranty and Guarantee	38
7.18	Indemnification	39
7.19	Delegation of Professional Design Services	39
Article 8—Other Work at the Site.....		40
8.01	Other Work	40
8.02	Coordination	41
8.03	Legal Relationships.....	41

Article 9—Owner’s Responsibilities	42
9.01 Communications to Contractor	42
9.02 Replacement of Engineer	42
9.03 Furnish Data	42
9.04 Pay When Due.....	42
9.05 Lands and Easements; Reports, Tests, and Drawings	43
9.06 Insurance.....	43
9.07 Change Orders	43
9.08 Inspections, Tests, and Approvals.....	43
9.09 Limitations on Owner’s Responsibilities	43
9.10 Undisclosed Hazardous Environmental Condition.....	43
9.11 Evidence of Financial Arrangements.....	43
9.12 Safety Programs	43
Article 10—Engineer’s Status During Construction	44
10.01 Owner’s Representative.....	44
10.02 Visits to Site.....	44
10.03 Resident Project Representative.....	44
10.04 Engineer’s Authority	44
10.05 Determinations for Unit Price Work	45
10.06 Decisions on Requirements of Contract Documents and Acceptability of Work	45
10.07 Limitations on Engineer’s Authority and Responsibilities	45
10.08 Compliance with Safety Program.....	45
Article 11—Changes to the Contract	46
11.01 Amending and Supplementing the Contract	46
11.02 Change Orders	46
11.03 Work Change Directives.....	46
11.04 Field Orders.....	47
11.05 Owner-Authorized Changes in the Work	47
11.06 Unauthorized Changes in the Work.....	47
11.07 Change of Contract Price	47
11.08 Change of Contract Times.....	49
11.09 Change Proposals.....	49
11.10 Notification to Surety.....	50

Article 12—Claims.....	50
12.01 Claims.....	50
Article 13—Cost of the Work; Allowances; Unit Price Work	51
13.01 Cost of the Work	51
13.02 Allowances	55
13.03 Unit Price Work.....	55
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work	56
14.01 Access to Work.....	56
14.02 Tests, Inspections, and Approvals.....	56
14.03 Defective Work	57
14.04 Acceptance of Defective Work.....	58
14.05 Uncovering Work	58
14.06 Owner May Stop the Work	58
14.07 Owner May Correct Defective Work.....	59
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period	59
15.01 Progress Payments.....	59
15.02 Contractor’s Warranty of Title	62
15.03 Substantial Completion.....	62
15.04 Partial Use or Occupancy	63
15.05 Final Inspection	64
15.06 Final Payment.....	64
15.07 Waiver of Claims	65
15.08 Correction Period	66
Article 16—Suspension of Work and Termination	67
16.01 Owner May Suspend Work	67
16.02 Owner May Terminate for Cause.....	67
16.03 Owner May Terminate for Convenience.....	68
16.04 Contractor May Stop Work or Terminate	68
Article 17—Final Resolution of Disputes	69
17.01 Methods and Procedures.....	69
Article 18—Miscellaneous	69
18.01 Giving Notice	69
18.02 Computation of Times.....	69

18.03	Cumulative Remedies	70
18.04	Limitation of Damages	70
18.05	No Waiver	70
18.06	Survival of Obligations	70
18.07	Controlling Law	70
18.08	Assignment of Contract.....	70
18.09	Successors and Assigns	70
18.10	Headings.....	70

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

TABLE OF CONTENTS

	Page
Article 1— Definitions and Terminology.....	1
Article 2— Preliminary Matters	1
ARTICLE 4 - Commencement and Progress of the Work	2
ARTICLE 5 - Site, Subsurface and Physical Conditions, Hazardous Environmental Conditions	2
Article 6— Bonds and Insurance.....	3
Article 7— Contractor’s Responsibilities	7
Article 9— Owner’s Responsibilities	9
Article 11— Changes to the Contract	9
Article 13— Cost of Work; Allowances, Unit Price Work.....	9
Article 15— Payments to Contractor, Set Offs; Completions; Correction Period	9
Article 16— Suspension of Work and Termination	10
Article 17— Final Resolutions of Disputes.....	10

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.A.8 Add the following language at the end of last sentence of Paragraph 1.01.A.8:

The Change Order form to be used on this Project is EJCDC C-941. Agency approval is required before Change Orders are effective.

SC-1.01.A.50 Add the following language at the end of the last sentence of Paragraph 1.01.A.50:

A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.

SC-1.01.A.51 Add the following new Paragraph after Paragraph 1.01.A.50:

Abnormal Weather Conditions – Conditions of extreme or unusual weather for a given region, elevation, or season as determined by Engineer. Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered Abnormal Weather Conditions.

SC-1.01.A.52 Add the following new Paragraph after Paragraph 1.01.A.51:

Agency - The Project is financed in whole or in part by NMDOT MAP, LGRF, and Local Match.

ARTICLE 2—PRELIMINARY MATTERS

2.02 *Copies of Documents*

SC-2.02 Amend the first sentence of Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor one printed copy of the Contract Documents (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF).

2.06 *Electronic Transmittals*

SC-2.06.B. Delete Paragraph 2.06.B and replace it with the term “Deleted”.

ARTICLE 4 - COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

SC-4.01A. Amend the last sentence of Paragraph 4.01.A by striking out the following words:

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

SC-4.05.C.2 Amend Paragraph 4.05.C.2 by striking out the following text: “abnormal weather conditions;” and inserting the following text:

Abnormal Weather Conditions;

ARTICLE 5 - SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS

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
Not used for this project.	N/A	N/A

- 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
No drawings, other than plan set.		

- G. The document above was provided in the Bidding Documents.

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
Not used for this project.	N/A	N/A

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
No drawings.		

ARTICLE 6—BONDS AND INSURANCE

6.01 Performance, Payment, and Other Bonds

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:

1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of EJCDC® C-610, Performance Bond (2010, 2013, or 2018 edition).
2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of EJCDC® C-615, Payment Bond (2010, 2013, or 2018 edition).

Add the following paragraphs immediately after Paragraph 6.01.H:

I. Non-Resident Contractor's Requirements Regarding Gross Receipts Tax Surety Bond

1. Section 7-1-55A NMSA 1978 provides that any person (as defined in §7-1-3 NMSA 1978) engaged in the construction business who does not have his principal place of business in New Mexico and enters into a prime construction contract to be performed in this state shall, at the time such contract is entered into, furnish the Director of the Revenue Division, Taxation and Revenue Department, or his delegate with a surety bond or other acceptable security in a sum equivalent to the gross receipts tax to be paid under the contract multiplied by the applicable rate of the gross receipts tax imposed by §7-9-4 NMSA 1978 to secure payment of the tax imposed on the gross receipts from the contract, and shall obtain a certificate from the Director of the Revenue Division, Taxation and Revenue Department, or his delegate, that the requirements of this paragraph have been met.
2. If the total sum to be paid under the contract is changed by ten percent or more after the date the surety bond or other acceptable security is furnished, to the Director or his delegate, such person shall increase or decrease, as the case may be, the amount of the bond or security within fourteen days after the change (§7-1-55B NMSA 1978).

3. In addition to the above requirements, the Contractor will be subject to all the requirements of §7-1-55 NMSA 1978.

6.02 Insurance—General Provisions

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

1. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance 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 after Paragraph 6.03.C:

- D. *Workers' Compensation and Employer's Liability:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance, including, as applicable, United States Longshoreman and Harbor Workers' Compensation Act, Jones Act, stop-gap employer's liability coverage for monopolistic states, and foreign voluntary workers' compensation (from available sources, notwithstanding the jurisdictional requirement of Paragraph 6.02.B of the General Conditions).

Workers' Compensation and Related Policies	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Jones Act (if applicable)	
Bodily injury by accident—each accident	N/A
Bodily injury by disease—aggregate	N/A
Employer's Liability	
Each accident	\$100,000
Each employee	\$100,000
Policy limit	\$500,000
Stop-gap Liability Coverage	
For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	N/A

- E. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:
 1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,

2. damages insured by reasonably available personal injury liability coverage, and
 3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- F. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage.
 - a. Such insurance must be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
 4. Underground, explosion, and collapse coverage.
 5. Personal injury coverage.
 6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
 7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04 "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- G. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.
 3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
 4. Any exclusion of coverage relating to earth subsidence or movement.
 5. Any exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).
 6. Any limitation or exclusion based on the nature of Contractor's work.

7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

H. *Commercial General Liability—Minimum Policy Limits*

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$2,000,000
Products—Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000

- I. *Automobile Liability*: Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$500,000
Each Accident	\$1,000,000
Property Damage	
Each Accident	\$500,000
[or]	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000

- J. *Umbrella or Excess Liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above. The coverage afforded must be at least as broad as that of each and every one of the underlying policies.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$
General Aggregate	\$1,000,000

- K. *Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements*: Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy, as specified herein. If such umbrella or excess liability policy was required under this Contract, at a specified minimum policy limit, such umbrella or excess policy must retain a minimum limit of \$500,000 after accounting for partial attribution of its limits to underlying policies, as allowed above.

- L. *Contractor's Pollution Liability Insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage, including cleanup costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance must be maintained for no less than three years after final completion.

Contractor's Pollution Liability	Policy limits of not less than:
Each Occurrence/Claim	N/A
General Aggregate	N/A

- M. *Contractor's Professional Liability Insurance:* If Contractor will provide or furnish professional services under this *Contract*, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance must cover negligent acts, errors, or omissions in the performance of professional design or related services by the insured or others for whom the insured is legally liable. The insurance must be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. The retroactive date on the policy must pre-date the commencement of furnishing services on the Project.

Contractor's Professional Liability	Policy limits of not less than:
Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

SC-7.03 Add the following new paragraph immediately after Paragraph 7.03.C:

- D. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

SC-7.03 Add the following new subparagraph immediately after Paragraph SC-7.03.D:

1. For purposes of administering the foregoing requirement, additional overtime costs are defined as Engineer's or Construction Observer's Standard Fee Schedule that can be disclosed to Contractor upon request.

7.10 Taxes

SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:

- B. Contractor's Gross Receipts Tax Registration

1. §7-10-4 NMSA 1978 provides that any person (as defined in §7-10-3 NMSA 1978) performing services for the state or its political subdivisions, as those terms are used in the Gross Receipts and Compensating Tax Act (§§7-10-1 through 7-10-5 NMSA 1978) must be registered and be issued an identification number with the Revenue Division of the Taxation and Revenue Department of the state to pay the gross receipts tax.
2. For information in obtaining the identification number contact: Revenue Processing Division, Taxation and Revenue Department, Manuel Lujan Sr. Building, 1200 St. Francis Drive, Santa Fe, New Mexico 87503, or call (505) 827-0825.
3. If any person who performs services for the State or its political subdivisions is not registered to pay the gross receipts tax, the Owner shall withhold payment of the amount due until the person has presented evidence of registration with the Revenue Division to pay the gross receipts tax.

7.11 *Laws and Regulations*

SC-7.11 Add the following new paragraph immediately after Paragraph 7.11.C:

- D. Contracts With Nonresident Persons Or Partnerships Or Unadmitted Foreign Corporations, Agent For Service Of Process: Special attention of Contractors is called to the requirements of §13-4-21 through 13-4-24 NMSA 1978, whereby a public works contract with a nonresident person or partnership or foreign corporation not authorized to do business in the State shall contain a specific provision designating an agent resident within the State, and his address, upon whom process and writs in any action or proceeding against such business may be served in any action arising out of such contract.

7.20 *Minimum Wage Rates*

SC-7.20 Add the following new paragraph immediately after Paragraph 7.19:

- A. The Contractor warrants and agrees that he and all subcontractors shall comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act, 1§13-4-11 NMSA 1978, if the project is over \$60,000; and other statutes pertaining to public works in New Mexico; and the federal Wage Rate Determination if the project is over \$2,000. The attached Minimum Wage Rate Determinations are declared to be prevailing and apply to the construction. Note: Applicable federal and state regulations require that the higher of the federal or the state wage rate for each classification must be paid.
- B. Submission of weekly payroll records to the Owner and Labor Commission is mandatory. Include the decision number on Contractor's and subcontractor's payrolls. The scale of wages shall also be posted in a prominent location at the site.
- C. In the event it is found by the Labor Commission, that any laborer or mechanic employed by the Contractor or Subcontractor on the site of the project covered by this Contract, has been or is being paid as a result of a willful violation, a rate of wages less than the rate of wages required by the Contract, the Owner may, by written notice to the Contractor and his subcontractor, if the violation involves a Subcontractor, terminate their right to proceed with the Work or such

part of the Work as to which there has been a willful failure to pay the required wages and the Owner may prosecute the Work to completion by contract or otherwise, and the Contractor shall be liable to the Owner and the State of New Mexico for any excess cost occasioned thereby.

ARTICLE 9—OWNER’S RESPONSIBILITIES

9.13 *Owner’s Site Representative*

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

9.13 *Owner’s Site Representative*

- A. Owner will furnish an “Owner’s Site Representative” to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner’s Site Representative is not Engineer’s consultant, agent, or employee. Owner’s Site Representative will be designated upon award of this Contract.

ARTICLE 11—CHANGES TO THE CONTRACT

11.02 *Change Orders*

SC-11.02 Add the following new paragraphs immediately after Paragraph 11.02.B of the General Conditions:

11.02 *Change Orders*

- C. All Contract Change Orders must be approved by Agency before they are effective.

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

13.02 *Allowances*

SC-13.02.C Delete Paragraph 13.02.C in its entirety and insert the following in its place:

[Deleted]

ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD

15.01 *Progress Payments*

SC-15.01.B.5 Add the following new Paragraph after Paragraph 15.01.B.4:

The Application for Payment form to be used on this Project is EJCDC C-620. The Agency must approve all Applications for Payment before payment is made.

SC-15.01.D.1 Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

The Application for Payment will be presented to the Owner and Agency for consideration. This contract allows the Owner to make payment within 45 days after submission of an undisputed request for payment (Section 57-28-5 B (2) NMSA 1978).

15.02 Contractor's Warranty of Title

- SC 15.02.A Amend Paragraph 15.02.A by striking out the following text: "no later than seven days after the time of payment by Owner" and insert "no later than the time of payment by Owner."

15.03 Substantial Completion

- SC 15.03.B Amend Paragraph 15.03.B by adding the following text to the end of the Paragraph: Agency is to accompany the Contractor, Owner, and Engineer on the Substantial Completion Inspection.

- SC 15.03.B Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 Owner May Suspend Work

- SC 16.01.A Amend Paragraph 16.01.A by adding the following text to the end of the Paragraph: Owner is required to notify the Agency within 7 calendar days if the work has been suspended or terminated.

16.02 Owner May Terminate for Cause

- SC 16.02.B.3 Add the following new subparagraph to Paragraph 16.02.B:

3. Owner will notify the Agency within 7 calendar days if the work has been suspended or terminated.

ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

17.02 Arbitration

- SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

17.02 Arbitration

- A. All matters subject to final resolution under this Article will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Paragraph SC-17.02). Any controversy or claim in the amount of \$100,000 or less will be

settled in accordance with the American Arbitration Association's supplemental rules for Fixed Time and Cost Construction Arbitration. This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.

- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitration administrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the specific time required in Article 17, or if no specified time is applicable within a reasonable time after the matter in question has arisen, and in no event will any such demand be made after the date when institution of legal or equitable proceedings based on such matter in question would be barred by the applicable statute of limitations.
- C. The arbitrator(s) must be licensed engineers, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Contract. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
- D. The Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Contract permits them to do so.
- E. The award of the arbitrators must be accompanied by a reasoned written opinion and a concise breakdown of the award. The written opinion will cite the Contract provisions deemed applicable and relied on in making the award.
- F. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver by that party to present evidence or cross-examine witness. In such event, the other party shall be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.
- G. No arbitration arising out of or relating to the Contract will include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:
 - 1. the inclusion of such other individual or entity will allow complete relief to be afforded among those who are already parties to the arbitration;
 - 2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration, and which will arise in such proceedings;
 - 3. such other individual or entity is subject to arbitration under a contract with either Owner or Contractor, or consents to being joined in the arbitration; and
 - 4. the consolidation or joinder is in compliance with the arbitration administrator's procedural rules.

- H. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Laws and Regulations relating to vacating or modifying an arbitral award.
- I. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Contract. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.

17.03 *Attorneys' Fees*

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02.

17.03 *Attorneys' Fees*

- A. For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

WORK CHANGE DIRECTIVE NO.: [Number of Work Change Directive]

Owner:

Owner's Project No.:

Engineer:

Engineer's Project No.:

Contractor:

Contractor's Project No.:

Project:

Contract Name:

Date Issued:

Effective Date of Work Change Directive:

Contractor is directed to proceed promptly with the following change(s):

Description:

[Description of the change to the Work]

Attachments:

[List documents related to the change to the Work]

Purpose for the Work Change Directive:

[Describe the purpose for the change to the Work]

Directive to proceed promptly with the Work described herein, prior to agreeing to change in Contract Price and Contract Time, is issued due to:

Notes to User—Check one or both of the following

☐ Non-agreement on pricing of proposed change. ☐ Necessity to proceed for schedule or other reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price: \$ _____ **[increase] [decrease] [not yet estimated].**

Contract Time: _____ days **[increase] [decrease] [not yet estimated].**

Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of the Work ☐ Other

Recommended by Engineer

Authorized by Owner

By:

Title:

Date:

CHANGE ORDER NO.: [Number of Change Order]

Owner:

Engineer:

Contractor:

Project:

Contract Name:

Date Issued:

Owner's Project No.:

Engineer's Project No.:

Contractor's Project No.:

Effective Date of Change Order:

The Contract is modified as follows upon execution of this Change Order:

Description:

[Description of the change]

Attachments:

[List documents related to the change]

Change in Contract Price	Change in Contract Times [State Contract Times as either a specific date or a number of days]
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order] : \$ _____	[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order] : Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] this Change Order: \$ _____	[Increase] [Decrease] this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Recommended by Engineer (if required)

Accepted by Contractor

By: _____

Title: _____

Date: _____

Authorized by Owner

Approved by Funding Agency (if applicable)

By: _____

Title: _____

Date: _____

FIELD ORDER NO.: [Number of Field Order]

Owner:

Owner's Project No.:

Engineer:

Engineer's Project No.:

Contractor:

Contractor's Project No.:

Project:

Contract Name:

Date Issued:

Effective Date of Field Order:

Contractor is hereby directed to promptly perform the Work described in this Field Order, issued in accordance with Paragraph 11.04 of the General Conditions, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference:

Specification Section(s):

Drawing(s) / Details (s):

Description:

[Description of the change to the Work]

Attachments:

[List documents supporting change]

Issued by Engineer

By: _____

Title: _____

Date: _____

SECTION 207: SUBGRADE PREPARATION

207.1 DESCRIPTION

This Work consists of compacting and finishing the Subgrade.

207.2 MATERIALS—Reserved

207.3 CONSTRUCTION REQUIREMENTS

Maximum dry density of all soil types encountered or used will be determined in accordance with AASHTO T 180 (Modified Proctor), Method A or D (TTCP Modified).

The Contractor shall ensure the top two (2) feet of borrow Materials in the finished Subgrade is comprised of Material with the design R-value.

The Contractor shall compact the top six (6) inches of the Roadbed to 95% of maximum density.

The Contractor shall ensure the soil moisture content (at the time of compaction) is from optimum to optimum minus five percent (5%). For soils with a PI of 15 or greater, the Contractor shall ensure the moisture content of the soil at the time of compaction is from optimum moisture to optimum moisture plus four percent (4%).

Field density tests shall be performed in accordance with AASHTO T310 or by other Department approved methods and Section 906, "Minimum Testing Requirements."

207.3.1 Tolerances

The Contractor shall ensure the top surface of the finished Subgrade along centerline shall not vary by more than 0.1 foot above or below established grade and 0.05 foot above or below the typical cross-section measured on the finished surface at right angles to the centerline. The Contractor shall correct all deviations from these tolerances.

207.4 METHOD OF MEASUREMENT

The Department will measure Subgrade preparation using the dimensions shown in the Contract and/or approved modifications.

207.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Subgrade Preparation</i>	Square Yard

207.5.1 Work Included in Payment

The Department will consider the item(s) listed in this section as included in the pay items(s) listed in Section 207.5, "Basis of Payment" and will not measure or pay for them separately:

1. No payment will be made for rehandling or reworking Material to meet moisture and density requirements; and
2. Proof rolling for Unstable Subgrade Stabilization shall be considered Incidental to the Contract and will not be measured or paid for separately.

SECTION 209: BLADING AND RESHAPING

209.1 DESCRIPTION

This Work consists of constructing or restoring and shaping Roadbeds and Base Course to the typical section or as specified in the Contract.

209.2 MATERIALS—Reserved

209.3 CONSTRUCTION REQUIREMENTS

The Contractor shall shape the surface of the Roadbed or Base Course Materials to the typical section or as specified in the Contract with approved existing Materials. The Contractor shall replace any unapproved existing Roadbed or Base Course Materials in accordance with the requirements of Section 203, "Excavation, Borrow, and Embankment" and Section 303, "Base Course", as directed by the Project Manager.

209.3.1 Compaction

The Contractor shall perform the following to the top six (6) inches of the Roadbed or Base Course, after restoring the grade and typical section:

1. Scarify;
2. Water to ensure the moisture content of the Roadbed and Base Course Materials meet the requirements of Section 203, "Excavation, Borrow and Embankment;" and Section 303, "Base Course;"
3. Compact to 95% of maximum density per AASHTO T180 Method A or D (TTCP Modified); and,
4. Frequency of testing shall be performed in accordance with Section 906, "Minimum Testing Requirements."

209.3.2 Tolerances

The Contractor shall ensure the top surface of the finished Roadbed or Base Course Materials along centerline shall not vary by more than 0.1 foot above or below established grade and 0.05 foot above or below the typical cross-section measured on the finished surface at right angles to the centerline. The Contractor shall correct all deviations from these tolerances.

209.4 METHOD OF MEASUREMENT

The Department will measure blading and reshaping along the Roadbed centerline or the typical section.

209.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Blading and Reshaping</i>	Mile

209.5.1 Work Included in Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Restoring Grade and typical section;

2. Material placement and compaction;
3. Reworking or rehandeling Materials to meet compaction requirements; and
4. Finishing Roadbed or Base Course to uniform grade and typical section.

SECTION 303: BASE COURSE

303.1 DESCRIPTION

This Work consists of providing, hauling, and placing Base Course.

303.1.1 Stockpiling

This Work consists of providing, hauling, and stockpiling Base Course at specified locations.

303.1.2 Removing, Processing, and Placing Base Course

This Work consists of removing, hauling, processing, placing existing Base Course Material.

303.2 MATERIALS

303.2.1 General

Base Course consists of one (1) or more of the following:

1. Crushed stone;
2. Crushed or screened gravel;
3. Caliche;
4. Sand;
5. Recycled Asphalt Pavement (RAP) not to exceed 50%; recycled concrete pavement (RC) not to exceed 75%; and the combined RAP and RC not to exceed 75% by weight;
6. Processed glass aggregate.

Base Course shall not contain organic matter or other Deleterious Materials, including silt and clay balls.

The Department will allow a maximum of ten percent (10%) (by weight) processed glass aggregate, uniformly distributed, in composite Base Course. Processed glass aggregate shall meet physical properties and deleterious substance requirements in accordance with AASHTO M 318.

303.2.2 Aggregate Acceptance

The Department will accept Base Course based on random samples taken by the Department from the Roadway. Unless the Contract specifies otherwise, the Contractor shall produce Material in compliance with Table 303.2.2:1, "Type I Base Course Gradation Band or Table 303.2.2:2, "Type II Base Course Gradation Band" as specified in the Contract and Table 303.2.2:3, "Base Course Physical Properties."

**Table 303.2.2:1
Type I Base Course Gradation Band**

Sieve size	% passing
1.0 inch	100
¾ inch	80--100
No. 4	30-60

**Table 303.2.2:1
Type I Base Course Gradation Band**

Sieve size	% passing
No. 10	20-45
No. 200	3.0-10.0

**Table 303.2.2:2
Type II Base Course Gradation Band**

Sieve size	% passing
1.0 inch	100
¾ inch	85-95
No. 4	40-70
No. 10	30-55
No. 200	6.0-15.0

**Table 303.2.2:3
Base Course Physical Properties**

Property	Specification Limit
Fractured Face ^a	Minimum 50% on Untreated Material
AI ^b	Maximum 35
LL	Maximum 25
PI	Maximum 6

^aMaterials retained on or above the No. 4 sieve shall have at least two (2) Fractured Faces when evaluated in accordance with AASHTO T-335, "Determining the Percentage of Fractured Faces in Coarse Aggregate."

^bMaximum AI of 35 for untreated natural aggregate source when calculated in accordance with Section 910, "AGGREGATE INDEX".

303.3 CONSTRUCTION REQUIREMENTS

303.3.1 Subgrade

The Contractor shall place base course on subgrade prepared in accordance with Section 207, "Subgrade Preparation."

303.3.2 Mixing and Placing

The Contractor shall:

- Place maximum six (6) inch (compacted) lifts, unless specified otherwise.
- Not Place Base Course Material on frozen Subgrade.
- Compact Base Course to at least 96% of maximum density as determined by AASHTO T 180 (Modified Proctor), Method D (TTCP Modified).

The Department will use nuclear testing methods to determine in-place densities in accordance with AASHTO T 310 and TTCP procedures for wet density moisture correction.

303.3.3 Surface Tolerance

The surface tolerance shall not exceed ½ inch within ten (10) feet as verified by the Department. All deviations greater than ½ inch shall be corrected by the Contractor and reverified by the Department.

303.3.4 Plan Base Course and Sub-base Depths

The Department will monitor and record Base Course depth during the placement in accordance with the Department's "Minimum Testing Requirements." If the placed thickness deviates from the requirements by more than minus ½ inch, the Contractor shall add Material and reprocess to correct the deficiency.

303.3.5 Stockpiled Base Course

The Contractor shall stockpile base course material at locations shown on the Plans and prevent segregation of Materials at each stockpile. The Contractor shall maintain each stockpile in accordance with the following requirements:

1. Place stockpiles upon prepared sites;
2. Make stockpiles neat and regular to prevent segregation;
3. Provide enough storage space for each size of aggregate;
4. Prevent contamination (store stockpiles away from vehicular and Equipment traffic);
5. Keep the storage site neat and orderly and keep the stockpiles accessible for sampling; and
6. Acceptance by the Department will be at the final stockpile location.

303.3.6 Removing and Processing Existing Base Course

The Contractor shall:

1. Minimize contamination of Base Course Material when removing it from the Roadway for reuse, and;
2. Meet the requirements as indicated in Section 303.3.2 "Mixing and Placing."

303.3.7 Sampling and Testing

The Contractor and Department shall sample and test the Base Course in accordance with Section 906 "Minimum Testing Requirements" for Base Course. Department personnel may test locations other than the random locations generated for statistical analysis. These tests will not be used for pay factor determination, but may be used to determine Acceptance or rejection of localized Material.

303.3.7.1 Contractor Quality Control

The Contractor shall develop and administer a Quality Control plan that ensures the product meets the requirements of Section 902, "Quality Control." The Contractor shall ensure that the Quality Control plan addresses the following elements:

1. Contractor management and process control personnel,
2. Testing Equipment and lab facilities,
3. Aggregate production,
4. Aggregate quality,
5. Stockpile management,

6. Proportioning,
7. Mixing and processing,
8. Transporting,
9. Placing and spreading,
10. Compaction,
11. Line and grade control, and
12. Criteria for the correction or rejection of unsatisfactory Materials.

The Contractor shall:

1. Provide copies of TTCP wallet cards or certifications for personnel who are responsible for sampling and testing the Base Course.
2. Update the list as required if personnel substitutions are made.
3. Use test results, inspections, and other Quality Control practices to assure the quality of each material source and to control processes for crushing, mixing, proportioning, processing, transporting, placing, spreading, and compacting quality.

303.3.8 Acceptance

The Department will accept Base Course Materials based on samples taken in accordance with the Section 906, "Minimum Testing Requirements" after placement but before compaction. Acceptance will be in accordance with Section 303.2.2, "Aggregate Acceptance" and Section 303.3, "Construction Requirements. If necessary, the Contractor shall re-work the Base Course until all requirements are met at no additional expense to the Department.

303.4 METHOD OF MEASUREMENT

When calculating the square yardage the Department will use the average Base Course width and the station-to-station length along the centerline. The dimensions will show on the typical section of the Plans. When calculating the weight of the material, the Department will deduct the weight of moisture that exceeds the optimum moisture content plus two percent (2%). No additional payment shall be made for the stockpile pad.

303.5 BASIS OF PAYMENT

The Department will pay for the accepted quantities of *Base Course* as determined in Section 303.3.8, "Acceptance."

Pay Item	Pay Unit
<i>Base Course</i>	Cubic Yard or Ton
<i>Base Course _____ inch Depth</i>	Square Yard
<i>Remove, Process and Place Base Course</i>	Square Yard or Ton
<i>Stockpiled Base Course</i>	Cubic Yard or Ton

303.5.1 Work Included in Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Providing, hauling, placing, and compacting Base Course Material;
2. Stockpiling, if required by contract;

3. Quality Control in accordance with Section 902, "Quality Control;" and
4. Remove, process, and place Base Course, if required by contract.

SECTION 408: PRIME COAT

408.1 DESCRIPTION

This Work consists of providing and applying asphalt Material and blotter Material (if required) to an existing surface.

408.2 MATERIALS

The Contractor shall provide one (1) of the following types of prime coat asphalt Material:

1. Asphalt emulsified prime (AE-P);
2. Penetrating emulsified prime (PE-P);
3. Emulsified Petroleum Resin Prime (EPR-1)
4. MC-70; or
5. Other Material approved by the Project Manager.

The Contractor shall provide prime coat asphalt Material in accordance with Section 402, "Asphalt Materials and Mineral Admixtures."

408.2.1 Certification

The Contractor shall provide a manufacturer's written certification that the prime Material is chemically identical to those identified on the Department's *Approved Products List*.

408.2.2 Blotter Material

The Contractor shall provide fine aggregate (sand) blotter Material in accordance with Table 408.2.2:1, "Blotter Material," unless otherwise approved by the Project Manager.

**Table 408.2.2:1
Blotter Material**

Sieve size	% passing
3/8 inch	100
No. 4	80 – 100
No. 16	45 – 80
No. 50	10 – 30
No. 100	2 – 10

408.3 CONSTRUCTION REQUIREMENTS

The Project Manager will determine the prime coat application rate and as indicated in Section 408.3.4, "Application of Prime Material."

408.3.1 Temperature and Weather Limitations

The Contractor shall not apply the prime Material in the following conditions:

1. If the surface has standing water;
2. If the air temperature is less than manufacturer's recommendation; or
3. If weather conditions prevent the proper placement of the prime coat.

The Project Manager may waive these temperature and weather limitations due to wet weather conditions or to protect Work in progress during Department approved suspensions.

408.3.2 Equipment

The Contractor shall:

1. Provide a distributor and Equipment for heating bituminous Material. Ensure the distributor is capable of maintaining the prime Material at an even temperature and can uniformly distribute the Material on variable widths with uniform pressure;
2. Ensure that the distributor can apply the Material as required;
3. Ensure that the distributor circulates the prime Material within the tank, the spray bar, and other accessories when not spraying; and
4. Ensure that the distributor has a hand spray gun with a precise-control single or double nozzle and a positive shut-off valve.

The Contractor shall ensure that the distributor has the following Equipment:

1. A tachometer;
2. Pressure gauges;
3. Accurate volume-measuring devices or a calibrated tank;
4. A thermometer that measures the temperature of tank contents;
5. A power unit for the pump; and
6. Laterally and vertically adjustable spray bars.

408.3.3 Preparation of Surface

The Contractor shall:

1. Shape the surface to be primed in accordance with the Plans, and ensure that it is free of ruts, corrugations, segregated Materials, or other irregularities.
2. Uniformly compact the surface in accordance with Section 303, "Base Course."
3. Ensure that the surface is slightly moist but not saturated when applying the prime.

408.3.4 Application of Prime Material

The Contractor shall:

1. Not apply the prime coat until the Project Manager has approved the quantities, application rates, Material temperature, and locations;
2. The Contractor shall apply the prime Material in a uniform and continuous layer using a pressure distributor;
3. Ensure the nozzles on the pressure distributor are fully open and at the same angle from the spray bar, approximately 30°;
4. Keep the spray bar at a height above the pavement surface to provide a double or triple lap of the prime Material;
5. If using a hand-held want, ensure the application is uniform; and
6. If distribution irregularities occur, cease operations and take corrective action.

If the Department allows traffic on the surface, the Contractor shall maintain one (1)-way traffic on the untreated section of the Roadbed until the treated surface has absorbed the prime Material, then transfer traffic to the treated portion and prime the untreated section.

The Contractor shall perform Work and procedures in accordance with manufacturer's recommendations.

408.3.5 Application of Blotter Material

If the prime Material fails to penetrate the surface within 24 h after its application, the Contractor shall spread blotter Material to absorb the excess Material. The Project Manager may approve the use of blotter Material on Roadway sections that must be opened to traffic before the 24 h waiting period.

408.4 METHOD OF MEASUREMENT

The Department will consider any water added to further dilute emulsified asphalts incidental to *Asphalt Material for Prime Coat* and no separate payment will be made.

408.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Prime Coat Material</i>	Ton

408.5.1 Work Included in Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Providing, mixing, heating, and applying asphalt Materials to the roadbed with an asphalt distributor;
2. Provide blotter Material as required;
3. Shipping/Delivery to Project site;
4. Sampling and Testing; and
5. Water.

SPECIAL PROVISIONS FOR SECTION 410: SURFACE TREATMENT

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

410.1 DESCRIPTION

This Work consists of constructing one (1) or two (2) Courses of Surface Treatment on a prepared and treated existing surfacing to include crushing, stockpiling, hauling, aggregate, binder and placement. This Work also consists of constructing one (1) or two (2) Courses of Surface Treatment on a prepared and treated existing surfacing acting as a Stress Absorbing Membrane (SAM).

410.2 MATERIALS

410.2.1 General

The Contractor shall provide Surface Treatment composed of asphalt binder and aggregate.

410.2.2 Asphalt Binder

The type and grade of asphalt binder will be specified in the Plans and shall be in accordance with the requirements of Standard Specifications Section 402, "Asphalt Materials and Mineral Admixtures".

410.2.3 Aggregate

The aggregate is crushed stone or crushed gravel, composed of hard durable particles or fragments.

Accepted aggregate Material shall meet the following requirements:

1. Have a minimum of 75% two (2) Fractured Faces as determined in accordance with AASHTO T 335, Fractured Face Determination for Coarse Aggregate;
2. Be free of organic matter, lumps of clay, or other Material that prevents thorough coating with asphalt binder;
3. Have an Aggregate Index (AI) of 20 or less when determined in accordance with Standard Specifications Section 910, "Aggregate Index"; and
4. The Department will allow the combination of Materials from two (2) or more sources if each source independently meets the requirements of items two (2) and three (3), above.

The Contractor shall ensure the aggregate meets the gradation requirements in Table 410.2.3:1 "Surface Treatment Aggregate Gradation Requirements," when tested in accordance with AASHTO T 11 and AASHTO T 27. The Department will determine aggregate combined aggregate gradation Acceptance by testing samples of the combined aggregates and mineral admixture taken before adding asphalt Materials.

Table 410.2.3:1
Surface Treatment Aggregate Gradation Requirements

Sieve Size	% Passing		
	1/2 Inch	3/8 Inch	1/4 Inch
3/4 Inch	100	100	100
1/2 Inch	95-100	100	100
3/8 Inch	0-60	95-100	100
No. 4	0-10	0-35	95-100
No. 8	0-3	0-3	0-3
No. 200	0-1.5	0-1.5	0-1.5

Aggregate that becomes contaminated or otherwise unusable shall be corrected by screening or washing at no cost to the Department. The extent of contaminated or unusable aggregate shall be determined by the Project Manager.

410.2.4 Blotter Material

Blotter Material shall be in accordance with Standard Specifications Section 408, "Prime Coat".

410.3 CONSTRUCTION REQUIREMENTS

The rate of placement of Surface Treatment and rolling operations shall be coordinated to produce a satisfactory Surface Treatment. The Project Manager may suspend the Work when any phase of the operation is being jeopardized. The Work shall not be resumed until the Contractor has complied with the requirements herein provided and as directed by the Project Manager.

The Contractor shall maintain and repair damage to the Surface Treatment resulting from public traffic or the Contractor's operations at no cost to the Department.

410.3.1 Weather Limitations

The Contractor shall not place Surface Treatment during wet or inclement weather, or when weather conditions otherwise adversely affect setting rate and curing of the asphalt binder as determined by the Project Manager. The Contractor shall not place Surface Treatment if either existing pavement or air temperature is below 60°F, but may be placed when both pavement and air temperatures are above 55°F and rising.

410.3.2 Stockpiling

Stockpiling shall be performed in accordance with Standard Specifications Section 303.3.5, "Stockpiled Base Course".

410.3.3 Control Strips

The spread rates of asphalt binder and aggregate and the Contractor's construction sequencing will be evaluated by use of control strips. The Contractor shall construct a control strip approximately 1,300 feet long at the beginning of the Work and when there is a change in source of aggregate or asphalt binder. The Contractor shall build the control strip and allow traffic on the control strip for a period of 24 hours after brooming operations have been completed. If the Project Manager determines that the required results are being obtained, operations may proceed, otherwise additional control strips shall be constructed as directed by the Project Manager.

410.3.4 Equipment

All Equipment shall be of type approved by the Project Manager. The Project Manager may require the Contractor to remove and replace any Equipment used in placing Surface Treatment that proves to be unsatisfactory.

410.3.4.1 Heater and Distributor

The Equipment for heating and applying the asphalt binder shall be in accordance with Standard Specifications Section 408.3.2, "Equipment".

410.3.4.2 Brooms

The Contractor shall have on hand at all times at least one (1) rotary power broom, suitable for removing aggregate that becomes dislodged from the surface.

410.3.4.3 Rollers

The Contractor shall provide rollers that are self-propelled, in good condition and capable of reversing without backlash.

The Contractor shall provide one (1) tandem or three-wheel roller weighing between five (5) and 10 tons.

The Contractor shall also provide a self-propelled pneumatic tired roller weighing not less than four (4) tons nor more than 10 tons without ballast. Pneumatic tire rollers shall be equipped with not less than four (4) front wheels and not less than five (5) rear wheels. The front and rear wheels shall be spaced so that the gap between adjacent tires will be covered by the path of the following tire. All tires shall be inflated to a pressure that will exert a ground pressure of 30 psi to 50 psi. A second pneumatic-tire roller may be used in lieu of the steel wheel roller when approved by the Project Manager.

410.3.4.4 Spreaders

The Contractor shall spread the aggregate by self-propelled aggregate spreaders, supported by at least four (4) wheels equipped with pneumatic tires on two (2) axles and equipped with a mechanical device which will spread the Surface Treatment at a uniform rate ranging from 9.5 pounds per square yard to 40 pounds per square yard. The aggregate spreader shall be equipped with a means of applying the larger aggregate required uniformly over the full width of the asphalt binder. Other types of aggregate spreaders may be used provided they produce equivalent results and are approved by the Project Manager.

410.3.5 Preparation of Surface

Immediately prior to applying asphalt binder, the Contractor shall thoroughly clean all dirt and loose Material by sweeping with power brooms, hand brooms, compressed air or other approved methods.

The Contractor shall remove unstable corrugated areas and replace with suitable patching Materials as approved by the Project Manager.

410.3.6 Application of Asphalt Binder

The rate of application of asphalt binder shall be as shown in the Plans or established by the Project Manager. The Contractor shall apply the asphalt binder by means of a pressure distributor in a uniform spread over the section to be treated. The application temperature range of the asphalt binder shall be approved by the Project Manager.

In areas where the use of a distributor is not practical, the Contractor shall apply the asphalt binder by hand or other approved methods. The Contractor shall correct areas where the amounts of asphalt binder are deficient or excessive at no cost to the Department.

Longitudinal laps shall be from three (3) to six (6) inches in width. The lapping or feathering of transverse joints will not be permitted. Building paper or other approved methods shall be used in making transverse joints to provide a smooth, uniform surface. Methods which create uneven surfaces will not be permitted. All asphalt binder adhering to the surfaces of structures, curbs, gutter, sidewalks, or other similar surfaces shall be removed at no cost to the Department.

The spread of asphalt binder shall not be more than six (6) inches wider than the width covered by the aggregate from the spreading device.

The application of asphalt binder shall be limited to that area which can be completely covered with aggregate while the asphalt binder is still fluid as determined by the Project Manager.

410.3.7 Application of Aggregate

At the time of application, Surface Treatment aggregate shall have a moisture content of two percent (2%) or less by dry weight. If so directed, the Contractor shall moisten the aggregate with water. Moistening shall be done at least one (1) day before the aggregate is to be applied. When shown in the Plans, the aggregate shall be uniformly coated with the designated asphalt binder in an amount of approximately one and a half percent (1.5%) by dry weight. The coated aggregate shall be of such consistency that it can be uniformly spread with mechanical spreaders.

Immediately following the application of the asphalt binder, the Contractor shall place aggregate at the rate shown in the Plans or established by the Project Manager. The Contractor shall immediately correct irregularities and bare spots.

The Contractor shall spread the aggregate in such a manner that the tires of the haul trucks or spreader do not contact the uncovered and newly applied asphalt binder.

410.3.8 Rolling Requirements

Immediately following the application of the aggregate, the Contractor shall roll the surface. The initial rolling shall begin at the outside edge of the Surface Treatment and progress towards the center. The initial rolling shall consist of one (1) pass over the entire surface within 15 minutes after the aggregate has been applied. Steel wheel rollers shall be operated at a maximum speed of three (3) mph.

The Contractor shall roll the Surface Treatment with pneumatic-tire rollers immediately after completion of the initial rolling. The entire surface of the Surface Treatment shall be rolled at least four (4) times unless otherwise directed by the Project Manager. Pneumatic-tired rollers shall be operated at a maximum speed of eight (8) mph.

410.3.9 Surface Treatments

When two (2) applications of Surface Treatment are required, the method of applying and finishing each additional application of Surface Treatment shall conform with the requirements for one (1) application of Surface Treatment. The time between placement of the first and second application of Surface Treatment shall be 12 hours and the time between placement of the second application of Surface Treatment and the

HMA overlay shall be 12 hours, or as determined by the Project Manager. During these operations, the lane will be closed to all traffic except construction vehicles.

410.3.10 Finishing Operations

After application and rolling of the Surface Treatment, the Contractor shall keep all traffic off the new pavement for at least two (2) hours unless otherwise directed by the Project Manager.

When public traffic is routed over the Surface Treatment, the Contractor shall use flagmen and pilot cars for a period of 10 hours after allowing traffic on the surface, unless otherwise directed by the Project Manager. Pilot cars shall travel at a speed not to exceed 15 mph.

The Contractor shall remove loose aggregate from the Surface Treatment by brooming prior to placing traffic on the Surface Treatment. Brooming shall be performed no sooner than twelve (12) hours after rolling, and again twelve (12) to twenty four (24) hours after initial brooming. The Project Manager will determine the actual time of brooming.

410.3.10.1 Blotter Material

The Contractor shall have approved blotter Material available at all times. The Project Manager shall specify the rate of application. The Contractor shall uniformly spread Blotter Material with Equipment approved by the Project Manager. Supplemental spreading or smoothing shall be done by hand methods where necessary and as directed by the Project Manager.

When directed by the Project Manager, the Contractor shall remove and dispose of excess blotter Material. The method of removal and disposal of blotter Material shall be the Contractor's responsibility.

410.3.11 Acceptance

The Contractor shall produce Surface Treatment in substantial compliance with Specification requirements. All Material that is rejected, at the sole discretion of the Department, shall be removed and replaced with Specification Material at the Contractor's expense.

410.4 METHOD OF MEASUREMENT

Surface treatment will be measured by the square yard using the dimensions shown on the Plans or approved field measurements.

Asphalt binder will be measured by the ton.

410.5 BASIS OF PAYMENT

Pay Item	Pay Unit
___ Course Surface Treatment ___	Square Yard
___ Course Surface Treatment ___ (SAM)	Square Yard
Asphalt Binder	Ton

410.5.1 Work included In Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Control strip;
2. Compacting of existing surface;
3. Provide blotter Material as required; and
4. Removal of unstable areas and patching Materials.

SECTION 416: MINOR PAVING

416.1 DESCRIPTION

This Work consists of constructing one (1) or more pavement courses of Hot Mix Asphalt (HMA) or Warm Mix Asphalt (WMA) on a prepared base or milled surface, and to include crushing, stockpiling, hauling, asphalt binder, mineral admixture, mix design, mixing, providing cold feeds, process control testing, and placement.

416.2 MATERIALS

The Contractor shall use Materials for minor paving in accordance with Section 423.2, "Materials."

416.3 CONSTRUCTION REQUIREMENTS

The Contractor shall perform minor paving in accordance with the following 423 Sections or the correlating 424 Sections:

1. Section 423.3.1, "Construction Requirements, General;"
2. Section 423.3.2, "Mix Temperature Requirements;"
3. Section 423.3.3, "Addition of Mineral Admixtures;"
4. Section 423.3.4, "Equipment;" and
5. Section 423.3.5, "Placement Operations" excluding 423.3.5.7, "Test Strip & Shakedown Period."

No referee testing will be required for Minor Paving, but may be used if both parties agree in writing at the Pre-Pave Conference. If used, referee testing will be done in accordance with Sections 423.3.7, "Dispute Resolution" and 424.3.7, "Dispute Resolution."

416.3.1 Sampling and Testing

416.3.1.1 Contractor Quality Control

The Contractor shall provide quality control measures in accordance with Section 902, "Quality Control."

416.3.1.2 Department Quality Assurance

The Department will provide quality assurance measures in accordance with Section 903, "Quality Assurance."

416.3.1.2.1 Acceptance

The Department will Accept the constructed product based on inspection and on Laboratory testing for conformance with the Contract. The Department will test samples of HMA/WMA taken from the Roadway before compaction. The Department will Accept the constructed product based on the following criteria:

1. Air voids as determined from Laboratory-compacted specimens in accordance with AASHTO T 166 and AASHTO T 209;
2. Asphalt content as determined by the tank strap method or plant asphalt metering system defined in the Contractor's Quality Control Plan (binder ignition oven calibration samples will not be required);

3. Final thickness of the compacted Material as measured from cores in accordance with ASTM D 3549; and
4. Density of the compacted Roadbed as determined in accordance with AASHTO T 310, Standard Method of Test for In-Place Density and Moisture Content of Soil-Aggregate by Nuclear Methods (Shallow Depth). Daily densities will be calculated using the current running average Gmm for the lot. The Contractor shall provide cores from three (3) locations designated by the Project Manager for correlation with the Nuclear Densometer. A new correlation factor can be requested if a change in Materials or conditions has occurred or if the accuracy of the established correlation factor is in question.

The Project Manager may reject Material that appears to be defective based on visual inspection.

Department representatives, certified in the relevant test procedures by the State Materials Bureau through TTCP, will perform Acceptance testing in accordance with AASHTO or Department methods, using the test methods and modifications in the current TTCP Manual.

416.3.1.2.1.1 Acceptance Lots and Pay Factor Determination

The Contractor shall identify the proposed Lot size in the Quality Control Plan for approval by the Project Manager. The Department will Accept density based on the average of all nuclear density tests per Lot, taken at a minimum of ten (10) nuclear density tests per Lot, and will Accept air voids and asphalt content based on the average of a minimum of three (3) tests per Lot.

The Department will determine pay factors in accordance with:

1. Table 416.3.1.2.1.1:1, "Price Adjustments for Density,"
2. Table 416.3.1.2.1.1:2, "Price Adjustments for Air Voids,"
3. Table 416.3.1.2.1.1:3, "Price Adjustments for Asphalt Content," and
4. Table 416.3.1.2.1.1:4 "Price Adjustment for Thickness."

The Department will obtain the TVs for asphalt content and air voids from the approved JMF and will determine payment for each Acceptance lot by multiplying the Bid Item Unit Price by the average of the pay factors per lot and multiplying the result by the total lot area or tonnage.

**Table 416.3.1.2.1.1:1
Price Adjustments for Correlated In-place Nuclear Density**

Percent density	Pay factor (%)
> 97.99	Reject
97.0 – 97.99	90
96.0 – 96.99	95
92.50 – 95.99	100
91.50 – 92.49	95
90.50 – 91.49	90
90.00 – 90.49	80
< 90.00	Reject

**Table 416.3.1.2.1.1:2
Price Adjustment for Air Voids**

Percent deviation from TV	Pay factor (%)
< 1.4	100
1.41 – 1.69	90
1.7 – 1.99	75
≥ 2.0	Reject

**Table 416.3.1.2.1.1:3
Price Adjustment for Asphalt Content**

Percent deviation from TV	Pay factor (%)
< 0.35	100
0.36 – 0.55	90
≥ 0.56	Reject

**Table 416.3.1.2.1.1:4
Price Adjustment for Thickness**

Deficiency from plan minimum thickness	Pay factor (%)
None (Plan Minimum or Thicker)	100
<1/4 inch	100
1/4 inch–1/2 inch	90
1/2 inch–3/4 inch	75
3/4 inch–one (1) inch	50
>one (1) inch	Corrective action

The Contractor shall remove and replace rejected Material identified in Table 416.3.1.2.1:1, "Price Adjustment for Density," Table 416.3.1.2.1:2, "Price Adjustment for Air Voids," and Table 416.3.1.2.1:3, "Price Adjustments for Asphalt Content." Instead of removing and replacing rejected Material, the Project Manager may allow the Material to remain in place at 50% of the Bid Item Unit Price, if in the best interest of the Department.

The Contractor shall take corrective action if specified in Table 416.3.1.2.1:4, "Price Adjustment for Thickness." Corrective action includes removal and replacement of the unacceptable Material, overlay of the unacceptable Material, or other corrective actions approved by the Project Manager. Thin or feathered edge surface patching is not Acceptable. Overlay lift thicknesses must meet the requirement of Table 416.3.1.2.1:5, "HMA/WMA Lift Thickness."

**Table 416.3.1.2.1.1:5
HMA/WMA Lift Thickness**

HMA Type	Lift Thickness (Inches)	
	Minimum	Maximum
SP-III	2.5	3.5
SP-IV	1.5	3.0
SP-V	0.75	1.5

416.3.1.3 Independent Assurance Testing

The Department will perform Independent Assurance sampling and testing in accordance with Section 906, "Minimum Testing Requirements."

416.4 METHOD OF MEASUREMENT

If the Department measures by the square yard, the Department will measure minor pavement using the dimensions shown in the Contract or approved field measurements.

416.5 BASIS OF PAYMENT

The Department will adjust payment for minor pavement in accordance with Section 416.3.1.2.1.1, "Acceptance Lots and Pay Factor Determination."

Pay Item

Minor Pavement

Pay Unit

Ton or Square Yard

416.5.1 Price Adjustments

The Department will pay for Accepted quantities of Minor Pavement at the Bid Item Unit Price, adjusted in accordance with this section. The Minor Pavement will be evaluated on a lot-by-lot basis at a price determined by multiplying the Bid Item Unit Price by the composite pay factor for the lot. The Department will use the sum of Table 416.5.1.1:1, "Weighting Factors," multiplied by the Pay Factors of Table 416.3.1.2.1:1, "Pay factor for Correlated In-place Nuclear Density;" Table 416.3.1.2.1:2, "Pay factor for Air Voids;" Table 416.3.1.2.1:3, "Pay factor for Asphalt Content;" and Table 416.3.1.2.1:4, "Pay factor for Thickness" to calculate each lot's composite pay factor. If the composite pay factor for a lot is greater than one (1.0), the pay factor will be set at one (1.0).

**Table 416.5.1:1
Weighting Factors**

Characteristic	"f" Factor (%)
Correlated In-place Nuclear Density Mat Density	35
Air voids	35
Asphalt Content	20
Thickness	10

416.5.2 Work Included in Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Asphalt binder, aggregate, blending sand, mineral filler, mineral admixture, and WMA additive or process as appropriate;
2. Mixing, hauling, placement, and compaction of HMA or WMA;
3. Providing Mix Design in accordance with Section 423.2.8' "Mix Design;"
4. Quality Control in accordance with Section 902, "Quality Control;"
5. Providing and transporting all cores for correlation; and
6. Providing storage container for samples and cores if referee testing is used.

SECTION 417: MISCELLANEOUS PAVING

417.1 DESCRIPTION

This Work consists of constructing one (1) or more courses of asphalt paving on a prepared surface.

Examples of miscellaneous paving include the following:

1. Ditch paving;
2. Median paving;
3. Slope paving;
4. Guardrail pads, bicycle/pedestrian paths and trails;
5. Asphalt curbs; or
6. As designated in the Plans.

417.2 MATERIALS

The asphalt paving consists of coarse and fine aggregates, asphalt binder, mineral filler, and hydrated lime or anhydrate based Material.

417.2.1 Aggregate

The Contractor shall use aggregate that meets the requirements in Table 417.2.1:1, "Aggregate Gradation Requirements."

Table 417.2.1:1 Aggregate Gradation Requirements	
Sieve size	% passing
3/4 inch	100
No. 4	40 – 70
No. 200	< 10

Coarse aggregate shall have an AI of 30 or less in accordance with Section 910, "Aggregate Index." The combined aggregate shall have a minimum sand equivalent of 45.

417.2.2 Asphalt Material

The Contractor shall use the type and grade of asphalt Material specified in the Contract. If no grade is specified, the Contractor shall use any performance-graded asphalt binder in accordance with Section 402, "Asphalt Materials and Mineral Admixtures."

The Contractor shall use asphalt mixture with sufficient asphalt binder to produce a design air voids of four percent (4%) or less, except for ditch paving, which shall have a design air voids of three percent (3%) or less. The Contractor shall use the superpave gyratory compactor at N (design) of 75 gyrations to determine the percentage. The Contractor shall use asphalt Material content that meets requirements for workability and desired surface texture.

417.2.3 Reclaimed Asphalt Pavement (RAP)

The Contractor may use RAP miscellaneous paving in any amount up to 35% of the total weight of the mix, providing the other provisions of this specification are met.

417.2.4 Job Mix Formula

The Contractor shall submit a JMF proposal to the Project Manager for approval at least 14 Days before paving. The JMF shall include the following:

1. Stockpile combination percentages and resulting gradation;
2. Source, grade, and percentage of asphalt binder; and
3. Any other information that will assist the Project Manager in evaluating the appropriateness of the mix design.

The Contractor shall not begin miscellaneous paving until the Project Manager has approved the JMF.

The Contractor may substitute any approved mix design that complies with the requirements of Section 423, "HOT MIX ASPHALT (HMA) MAJOR PAVING," Section 424, "WARM MIX ASPHALT (WMA)," or Section 416, "MINOR PAVING" instead of the requirements of this section.

The Contractor shall submit proposed changes to the approved JMF to the Project Manager for approval before placement.

417.3 CONSTRUCTION REQUIREMENTS

417.3.1 Mixing Plants

The Contractor shall prepare HMA or WMA for miscellaneous paving in an asphalt plant of typical configuration and in good repair. The Contractor may use drum or batch mixing plants in accordance with Section 423.3.4, "Equipment." No referee testing will be required for Miscellaneous Paving. Referee testing may be used if both parties agree in writing prior to commencing placement operations for Miscellaneous Paving.

417.3.2 Haul Equipment

The Contractor shall use haul Equipment in accordance with Section 423.3.4.2, "Haul Equipment."

417.3.3 Placement Operations

Unless otherwise specified in the Contract, the Contractor shall:

1. Prepare the surface by compacting the top six (6) inches of soil to 95% of maximum density in accordance with AASHTO T 180 (Modified Proctor), Method D (TTCP Modified);
2. Place asphalt mixtures in accordance with the Plans, or as directed by the Project Manager. The surface of the placed mix shall be smooth and uniform in texture;
3. The Contractor shall compact with a mechanical roller of suitable type and size to obtain the density and surface texture specified in the Plans;
4. Cross-roll ditch paving with a pneumatic roller or by other approved means to produce a corrugated texture; and
5. Roll and consolidate Median and slope paving, and guardrail pads to a uniform texture.

417.3.4 Temperature and Weather Limitations

The Contractor shall perform miscellaneous paving in accordance with Section 423.3.5.1, "Temperature and Weather Limitations."

417.3.5 Acceptance

The Contractor shall correct or remove Material that the Project Manager determines is improperly coated or segregated or that otherwise fails to meet the requirements of this Specification.

The Department will base Acceptance of miscellaneous paving on visual examination, verification of line and grade, and by density testing (if required). The Department will require density testing on bicycle/pedestrian paths and trails.

When densities are required the Contractor shall make three (3) passes in the first 100 feet of paving with compaction equipment to be used in production and three (3) densities will be taken. The three (3) densities will be averaged and used for the maximum density for the Project. Placement of the HMA/WMA shall meet the proper compaction temperature and thickness (as shown on the Plans).

Acceptance lots for density will be a maximum of 500 yd². The Contractor shall take three (3) nuclear density readings at random locations within the Acceptance lot and use the average of the three (3) tests for pay factor determination. The Department will determine the pay factor for each lot in accordance with Table 417.3.5:1, "Price Adjustments for Density."

The Project Manager may reject Material that appears to be defective based on visual inspection.

**Table 417.3.5:1
Price Adjustments for Density**

Percent of Determined Maximum Density	Pay factor (%)
≥ 98	100
95.0 – 97.9	95
92.0 – 94.9	80
< 92.0	Reject

The Contractor shall remove and replace rejected Material identified in Table 417.3.5:1, "Price Adjustment for Density." Instead of removing and replacing rejected Material, the Project Manager may allow the Material to remain in place at 50% of the Bid Item Unit Price, if in the best interest of the Department.

417.4 METHOD OF MEASUREMENT

The Department will measure all pay items using the dimensions shown in the Contract or approved modifications.

417.5 BASIS OF PAYMENT

The Department will adjust payment for miscellaneous paving in accordance with Section 417.3.5, "Acceptance."

Pay Item	Pay Unit
<i>Miscellaneous Paving</i>	Square Yard

417.5.1 Work Included in Payment

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Asphalt binder, aggregate, blending sand, mineral filler, mineral admixture, and WMA additive or process as appropriate;
2. Mixing, hauling, placement, and compaction of HMA or WMA;
3. Quality Control in accordance with Section 902, "Quality Control;" and
4. Providing Mix Design in accordance with Section 423.2.8, "Mix Design."

SECTION 601: REMOVAL OF STRUCTURES AND OBSTRUCTIONS

601.1 DESCRIPTION

This Work consists of removing and salvaging, or disposing of buildings, fences, Structures, utility lines, pavement in its entirety or partially to neat cut or saw cut lines, and other obstructions.

This Work also includes salvaging specified Materials and backfilling the resulting trenches, holes, and pits.

The Contractor shall repair salvageable items that are damaged during removal, whether designated for removal in the Contract or by the Project Manager, at no additional cost to the Department.

601.2 MATERIALS—RESERVED

601.3 CONSTRUCTION REQUIREMENTS

601.3.1 General

If the Contract identifies Material for salvage, remove the Material and return to the Department in a transportable condition. The Contractor shall store this Material in accordance with the Contract.

The Contractor shall notify the Project Manager in writing of disposal details for Material not identified as salvage.

The Contractor shall destroy unusable, non-hazardous combustible Material. Dispose of non-hazardous, non-combustible Material. If the Contractor disposes of this Material outside the Right of Way, provide the Project Manager with a copy of the written permission from the property owner.

The Contractor shall backfill holes created by Structure removal. If the hole is within the Roadway Prism, compact in accordance with Section 203.3.5, "Embankments," and Section 203.3.7, "Moisture and Density Control." Break up concrete aprons or surfacing before burying to allow water to drain.

The Contractor shall provide a list of removals to the Project Manager at the preconstruction conference, with the following information for each:

1. A percent of the pay item amount; and
2. A monetary value.

601.3.2 Removal of Bridges, Culverts, and Other Drainage Structures

The Contractor shall remove existing Structures in a streambed down to the stream bottom. The Contractor shall remove existing Structures outside the stream to one (1) ft below the ground surface. The Contractor shall remove more of the existing Structure if necessary to accommodate a new Structure.

If dismantling a steel or wood Bridge, the Contractor shall minimize damage to the removed Material if identified as salvageable, match-mark the steel members (unless otherwise approved by the Project Manager), and store salvaged Material in accordance with Section 601.3.1, "Construction Requirements, General."

If removed concrete is specified for use as riprap in the Contract, the Contractor shall crush and stockpile as directed by the Project Manager.

601.3.3 Removal of Pipe

The Contractor shall minimize damage while removing existing pipe. If the Project Manager identifies existing pipe as reusable, the Contractor shall store the reusable pipe, minimizing loss or damage.

601.3.4 Removal of Pavement, Sidewalks, Curbs, and Gutters

The Contractor shall break asphalt pavement and concrete items including pavement, Sidewalks, curbs, and gutters, and dispose of them in accordance with Section 601.3.1, "Construction Requirements, General."

If approved by the Project Manager, the Contractor shall recycle existing ballast, Base Course, gravel; asphalt Material, and other surfacing Materials in accordance with Section 107.14.7, "Disposal of Removed Asphalt Pavement Material." The Contractor is responsible for disposing of excess Material in accordance with Section 601.3.1, "Construction Requirements, General."

601.3.5 Removal of Fence

The Contractor shall salvage fence Materials, unless otherwise specified in the Contract. The Contractor shall place barbed wire into single-strand rolls. The Contractor shall minimize damage when pulling posts.

601.3.6 Demolition

If the Contract requires demolition, the Contractor shall remove the existing Structures and restore to the existing surface.

Before beginning demolition, the Contractor shall coordinate disconnection of utility services with the appropriate utility owner.

The Contractor shall immediately repair broken or damaged utilities, at no additional cost to the Department.

601.3.7 Hauling and Stockpiling Salvageable Material

If the Contract requires the Contractor to haul and stockpile salvageable Material; the Contractor shall load, haul, unload, and stockpile the Materials in accordance with the Contract. The Contractor shall minimize damage to the Material.

The Contractor shall place the salvageable Material on blocks or other approved Materials and maintain the stockpile area, as directed by the Project Manager.

601.4 METHOD OF MEASUREMENT

The Department will measure Removal of Structures and Obstructions as a lump sum based on the schedule of values in the Contract.

601.5 BASIS OF PAYMENT

Pay Item*Removal of Structures and Obstructions**Removal of Surfacing**Demolition***Pay Unit**

Lump Sum

Lump Sum or Square Yard

Lump Sum

The Department will make payment based on the percent complete of each item on the list of removals provided to the Project Manager at the Pre-Construction Conference.

The Department will not make additional payment for minor removals not specified in the Contract.

601.5.1 Work Included in Payment

The Department will consider the following Work as included in the payment and no separate payment will be made:

1. No direct payment will be made for filling cavities left by Structure removal, and the Work shall be considered Incidental to the applicable items;
2. No direct payment will be made for loading, hauling, unloading, and satisfactorily stockpiling salvageable Material and the Work shall be considered Incidental to the applicable items; and
3. Saw cutting when designated in the Contract.

SECTION 618: TRAFFIC CONTROL MANAGEMENT

618.1 DESCRIPTION

This Work consists of providing traffic control management in accordance with the Contract and the *MUTCD, current edition*, including supervision of personnel and installation, inspection, maintenance and field adjustment of traffic control devices on the Project.

618.2 REQUIREMENTS

The Contractor may assign more than one (1) traffic control supervisor (TCS) to provide traffic control management for the Project.

If assigning more than one (1) TCS to provide traffic control management, the Contractor shall submit to the Project Manager a weekly schedule identifying who shall be in charge of providing traffic control management each Day.

The Contractor shall provide the TCS with a set of traffic control Plans and a current copy of the *MUTCD*. The TCS shall possess these at all times.

If using a Subcontractor to provide traffic control management, the Contractor shall ensure that the TCS is in accordance with the Contract.

The Contractor may assign one (1) or more traffic control technician (TCT) to assist the TCS in inspection and maintenance of traffic control devices.

All Equipment, Materials, and/or vehicles stored within the ROW shall be outside of the clear zone as denoted in the Contract or per the AASHTO Roadside Design Guide (current version).

618.2.1 Certification

Before commencing Work that requires traffic control management, the Contractor shall submit to the Project Manager a copy of the "Work Zone Safety Supervisor" certificate for the TCS (wallet size card) issued by the American Traffic Safety Services Association (ATSSA), the Associated Contractors of New Mexico (ACNM), or an agency or firm approved by the Department.

Wallet size card or proof of certification shall be on the individual in the field while on the Project.

The Department will Accept the TCS certification by ATSSA, ACNM, or any agency or firm only if the following requirements are met:

1. Successful completion of a Department-approved Work-zone traffic control course;
2. Passing a written examination on a Work-zone traffic control course; and
3. At least one (1) year of full-time field experience, verified by the agency or firm, in Work zone traffic control; the Department may verify the experience at its discretion.

The TCT must only satisfy requirements 1 and 2, above.

Before commencing Work that requires flagger traffic control, the Contractor shall submit a copy of the "Flagger Training" certificate (wallet sized card) issued by ATSSA, ACNM, FHWA, or an agency or firm approved by the Department.

618.2.1.1 Re-certification

The Contractor shall renew the TCS's certification every four (4) years through the ATSSA, ACNM, or a Department-approved agency or firm.

The Contractor shall re-certify in the fourth year, before the expiration date of the current certification.

Flaggers must obtain refresher training which meets the requirements of ATSSA, ACNM, FHWA, or agency or firm approved by the Department prior to the fourth anniversary date shown on the current certificate.

618.2.2 Duties

The TCS's only responsibility is traffic control management. The Department may allow exceptions to this rule if the Project is small and requires limited traffic control. The Project Manager and the District Traffic Engineer will determine approval of the exception at the Pre-Construction Conference.

The TCS's primary duties include the following:

1. Providing management and supervision services at the Project site;
2. Preparing revisions requested by the Contractor to the traffic control Plan in the Contract and submitting the new traffic control Plan, in CAD format or hand drafted on a 12 inch × 18 inch piece of 20-pound paper using current drafting standards, to the Project Manager for approval by the District Traffic Engineer. Complex traffic control Plans require development by a registered professional Engineer prior to submittal to the Project Manager;
3. Coordinating the flagging and signing personnel training;
4. Supervising the flagging and signing personnel;
5. Coordinating traffic control operations for the duration of the Contract, including those of Subcontractors, utility companies, and Suppliers, to ensure that traffic control is in place and fully operational before the commencement of Work. When dealing with utility companies, the TCS shall coordinate concurrent utility traffic control with other construction traffic control to avoid conflicts;
6. Coordinating, in writing, Project activities with the appropriate individual traffic control, law enforcement, and fire control agencies;
7. Preparing and submitting statements concerning Road closures, Delays, and other Project activities to the news media, as necessary. Before submittal to the news media, the Contractor shall submit news releases to the Project Manager for review and approval;
8. Notifying the Project Manager of accidents related to the Project traffic control;
9. Recording time and date of accident notification in accordance with Section 618.2.2.1, "Traffic Control Diary;"
10. Attending the Pre-Construction Conference;
11. Maintaining, cleaning, and replacing traffic control devices in use per the current traffic control Plan during working and non-working hours; and
12. Throughout the Construction duration for Projects the Contractor shall be responsible to keep the Project Manager and the District Public Relations Officer informed of any information regarding construction activities.

618.2.2.1 Traffic Control Diary

The TCS shall maintain a Project traffic control diary in a bound book. The Contractor shall obtain the diary from the ACNM.

The TCS shall keep the traffic control diary current each Day and sign each daily entry.

The TCS shall make entries in ink, in a format approved by the Project Manager, without erasures or white-outs. The TCS shall strike out unacceptable entries and replace with Acceptable ones. The TCS may use photographs to supplement the written text.

The Contractor shall ensure that the traffic control diary is available for inspection by the Project Manager at all times and submit a copy of the diary to the Project Manager at the end of each week. Incident reports will be made available to the Project Manager upon request.

The traffic control diary will become the property of the Department at the completion of the Project. If the Contractor fails to submit the diary, the Department may withhold final payment until it is submitted.

618.2.2.2 Inspection of Traffic Control

The Contractor shall keep all traffic control equipment clean and in good repair. The TCS shall inspect traffic control devices every Day that traffic control devices are in use. The TCS shall provide for the immediate cleaning, repair, or replacement of traffic control devices that are not functioning as required to ensure the safety of the motorists and construction personnel.

The TCS shall conduct inspections of the traffic control devices at the beginning and end of each Day that traffic control devices are in use, and as scheduled or directed by the Project Manager during the Work Day.

The TCS shall inspect the traffic control devices during working and non-working hours on a schedule approved in writing by the Project Manager.

The TCS shall inspect traffic control devices that are in use for longer than seven (7) Days at least once a week during nighttime periods.

618.2.3 Availability of TCS

The Contractor shall provide traffic control management under the supervision and direction of the TCS on a 24-hour-per-Day basis throughout the duration of the Project, the TCS shall be on the Project whenever Work is in progress, and available by telephone to be on the Project within one (1) hour at all times.

The provisions for availability of the TCS will also apply during times of Partial or full Project Suspension.

618.2.4 Signal Coordination and Operation

The Contractor shall be required to develop and maintain alternate traffic signal timing Plans within the Work zone and along detour routes and route affected by long-term closures temporary traffic control as defined in the Contract lasting longer than five (5) Calendar Days. The Work shall conform to the following process, and shall be developed and stamped by a licensed Professional Engineer in the State of New Mexico:

1. Prior to the start of construction, the Contractor shall schedule a coordination

- meeting with the local agency responsible for maintaining the affected traffic signals;
2. Collect traffic count data at affected intersections. Collection procedure may use either mechanical equipment or staff;
 3. Estimate addition or subtraction of vehicles based on change in traffic patterns due to Project;
 4. New volume data shall be entered into a signal timing software for development of new Plans. Whenever possible, those Plans shall coordinate with the local agency timing plans through the use of identical cycle lengths;
 5. Where the local agency maintains control of the signal throughout construction, new timing plans shall be delivered to local agency staff one (1) week before anticipated implementation;
 6. Where the Contractor constructs a new traffic signal, either temporary or permanent, the Contractor shall ensure that the new timing Plan is entered into the signal controller prior to the first Day of the construction phase; and
 7. After notification is received that the new Plans have been implemented, Contractor staff shall verify that the new Plan is working within desired parameters.

618.3 COMPLIANCE

618.3.1 Failure to Comply

If the Contractor fails to comply with the approved traffic control Plan or fails to immediately correct unsafe traffic conditions after written notification of the problem, the Project Manager may suspend all or part of the Contractor's operations.

If the Contractor does not take appropriate action to correct the problem, the Department may proceed with the corrective action and charge the Contractor for the additional cost incurred by the Department.

If the Department suspends the Contractor's operations, the Department will include the period necessary to correct these unsafe conditions and traffic control deficiencies in the normal assessment of Contract Time.

The Department will not relieve the Contractor of the responsibility to provide traffic control safety to the traveling public, if the Department fully or Partially Suspends the Project.

If the Department suspends the Project due to the Contractor's failure to comply with this Section, or the Contract is in liquidated damages, the Contractor shall continue to provide traffic control management, at no additional cost to the Department.

If the Contractor requests full or Partial Suspensions, the Contractor shall perform the additional traffic control management at no additional cost to the Department.

The Contractor shall reimburse the Department for the Department's incurred costs of such corrections plus an additional ten percent (10%) for administrative costs.

618.3.2 Project Manager Modifications

The Project Manager may change requirements for handling and controlling traffic during construction, with the approval of the District Traffic Engineer, due to actual field conditions. The Project Manager will make these changes and provide written notice to the Contractor.

618.4 METHOD OF MEASUREMENT—Reserved

618.5 BASIS OF PAYMENT

Pay Item

Traffic Control Management

Traffic Control Management

Pay Unit

Lump Sum

Calendar Day

618.5.1 Partial Payments

If the Department pays for *Traffic Control Management* by the Lump sum, the Department will make monthly partial payments for *Traffic Control Management* based on the rate of progress of the Project, less previous partial payments for this item. The Department will calculate partial payments in accordance with the following equation:

$$P = \left(\frac{A \times L}{B} \right) - C \quad (1)$$

Where,

P is the partial payment

L is the Total Bid Amount for *Traffic Control Management*

A is the number of Days charged the Contractor toward completion of the Project

B is the original Contract Time

C is the total amount of previous partial payments for this item

The Department will negotiate payment for additional traffic control management resulting from an increase in Work beyond the scope of the Project. The Contractor shall not start Work until agreement on payment for additional *Traffic Control Management*.

For normal increases in Contract Items resulting in extensions of the Contract Time, the Department will increase the original Lump sum amount based on the ratio of actual additional Days used to the original Contract Time.

SECTION 621: MOBILIZATION

621.1 DESCRIPTION

This Work consists of mobilization, remobilization and demobilization to and from a Project.

621.2 MATERIALS

The Contractor shall provide personnel, Equipment, Materials, and operating supplies to the Project site.

621.3 CONSTRUCTION REQUIREMENTS

Mobilization and demobilization shall consist of obtaining all required insurance, bonds and permits; preparatory Work and operations necessary for the movement of personnel, Equipment, supplies, and Incidentals to and from the Project site; this item shall also include the establishment of offices, buildings, and other facilities necessary for the Project, before beginning Work on the Project. It does not include mobilization and demobilization for specific items of Work for which payment is provided elsewhere in the Contract.

621.4 METHOD OF MEASUREMENT

The Accepted quantities complete in place will be considered for compensation as directed by the Project Manager.

621.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Mobilization</i>	Lump Sum

621.5.1 Work Included in Payment

The Department will pay the Contractor partial payments using the following procedure:

1. When five percent (5%) or more of the Total Original Contract Amount less mobilization is earned, 25 percent of the amount Bid for mobilization will be paid.
2. When ten percent (10%) or more of the Total Original Contract Amount less mobilization is earned, up to 50 percent, less previous amounts paid, of the amount Bid for mobilization will be paid.
3. When 25 percent or more of the Total Original Contract Amount less mobilization is earned, up to 75 percent, less previous amounts paid, of the amount Bid for mobilization will be paid.
4. When 50 percent or more of the Total Original Contract Amount less mobilization is earned, up to 100 percent, less previous amounts paid, of the amount Bid for mobilization will be paid.

The total sum of all Mobilization payments shall not exceed the Original Contract Amount Bid for the item.

The Department will not make additional payments for demobilization and remobilization due to shutdowns, whole or partial suspensions of the Work or for other mobilization activities required for satisfactory completion of the Contract.

SECTION 701: TRAFFIC SIGNS AND SIGN STRUCTURES

701.1 DESCRIPTION

This Work consists of providing and installing traffic signs and sign Structures in accordance with the *MUTCD, current edition*

701.2 MATERIALS

701.2.1 Concrete

The Contractor shall use Class G concrete for overhead sign structure foundations in accordance with Section 502, "Drilled Shafts."

The Contractor shall use Class A concrete for extruded panel sign foundations in accordance with Section 510, "Portland Cement Concrete."

701.2.2 Steel Reinforcement

The Contractor shall use steel reinforcement in accordance with Section 540, "Steel Reinforcement."

701.2.3 General

The Contractor shall provide Materials manufactured in accordance with the requirements of ASTM D 4956, current version.

701.2.3.1 Sign Manufacturer's Quality Control

The Contractor shall manufacture permanent signs in accordance with a Quality Control (QC) program approved and certified by the Traffic Services Engineer before fabrication.

The Contractor shall ensure the QC program includes the following:

1. Basis of raw Material Acceptance:
 - 1.1 Sign manufacturer Certificates of Compliance for sign Materials; or
 - 1.2 Random lot testing and certification of sign Materials by an independent testing Laboratory (ITL); and
 - 1.3 Traffic Services Engineer's approval of methods of manufacture;
2. Type, method, and frequency of control tests;
3. A record of QC program data for each sign component as follows:
 - 3.1 Maintain a logbook or other approved form of documentation that cross-references sign certifications. Include certifications for each sign component Material lot used to make each sign. Maintain these records for at least three (3) years;
 - 3.2 File and cross-reference any special instructions on how to use sign Materials, such as substrate preparation before applying sign sheeting or use of special inks;
4. Final inspection:
 - 4.1 Provide a manufacturing checklist for signs. Identify all sign component Material lot numbers and cross-reference those with the manufacturer's or ITL's Certificates of Compliance;

- 4.2 Provide a completed checklist to the Project Manager with each sign shipment;
and
5. Name and position of the Quality Control person.

701.2.3.2 De-certification of Quality Control Program

The Department may withdraw approval of a sign manufacturer's QC program, if the manufacturer fails to follow the certified written QC program or fabricates signs that do not conform to Department Specifications. The Traffic Services Engineer or designee will determine the de-certification period based on the severity and nature of infractions.

The Department may prohibit the use of sign manufacturers that do not have a certified QC program. However, the Traffic Services Engineer may allow the sign manufacturer to supply signs under the following conditions when the QC program certification has been withdrawn:

1. The sign manufacturer shall hire an ITL to inspect the manufacture of signs to be used on Department Projects, as approved by the Department; and
2. The ITL shall have a certified Quality Control program. The ITL shall provide a checklist in accordance with the certified QC program to the Project Manager indicating the signs were inspected and in accordance with the Specifications.

The Traffic Services Engineer or designee may recertify sign manufacturers, if they meet Department requirements.

701.2.3.3 Verification of Manufacturer's Certification

The Contractor shall submit the name of the proposed sign manufacturer and Project number in writing. The Traffic Services Section will verify that the proposed sign manufacturer is eligible to supply signs to the Project.

701.2.3.4 Sign Identification

The Contractor shall ensure that signs have identification labels as follows:

1. Display the following Information on the manufacturer's identification label:
 - 1.1 The wording, "Manufactured By," followed by the sign Fabricator's initials;
 - 1.2 Month and year fabricated;
 - 1.3 Reflective sheeting type and manufacturer's initials;
 - 1.4 The statement, "Property of the State of New Mexico, Defacing or Theft is a Crime;" and
 - 1.5 Whether sign is laminated with anti-graffiti sheeting;
2. Display the following Information on the Contractor's identification label:
 - 2.1 Contractor's name; and
 - 2.2 Date installed (month and year).

The labels may be dye stamped in 3/8 inch letters and numerals, or 1/2 inch letters and numerals made with high-tack adhesive reflective or non-reflective sign sheeting, prepared with screened ink. The Contractor shall place labels on the lower backside of the sign, where not hidden by any post or frame member. The Contractor shall provide labels with weather resistance characteristics having a service life at least equal to that of the sign. The Contractor shall not damage signs during die stamping.

701.2.3.5 Special Coded Signs

At the Pre-Construction meeting, the Contractor shall submit detail drawings to the Project Manager for review and approval by the State Traffic Technical Support Engineer for any special signs that significantly deviate from Plan Drawing dimensions or that, which is contrary to latest edition of the MUTCD.

Detailed drawings must show the complete legend, arrangement of letters and numerals, letter and numeral height, letter series, symbols, borders, and dimensions. The Contractor shall not manufacture special signs until the Department has reviewed and approved submitted sign drawings.

701.2.4 Sign Components

701.2.4.1 Retroreflective Sheeting

The Contractor shall use retroreflective sheeting included in the Department's *Approved Products List*. The Contractor shall provide certification that sheeting is in accordance with ASTM D 4956, current version. The Contractor shall provide sheeting that has a smooth, flat exterior film with retroreflective elements homogeneous in appearance, weather resistant, and with a protected, pre-coated adhesive backing.

The Contractor shall use Type XI retroreflective sheeting for all signs with the following exceptions:

1. Recreational, cultural interest, general service, and specific service signing shall have a minimum Type IV retroreflective sheeting.

701.2.4.1.1 Colors

The Contractor shall provide the diffuse Day color of the retroreflective sheeting in accordance with ASTM D 4956, current version, Table 13.

701.2.4.1.2 Coefficient of Retroreflection

The Contractor shall provide sign sheeting with a coefficient of retroreflection, expressed as Specific Intensity per unit area, or average candlepower per foot-candle per square foot. The Contractor shall ensure the intensity values meet at least the minimum values at 0.2° and 0.5° observation (divergence) angles, and, when specified in the Contract, at least the minimum values at 0.1° and/or one degree (1.0°) Observation Angles. The Contractor shall ensure intensity values are in accordance with Table 701.2.4.1.2:1, "Type IV Sheeting - Unmetallized Microprismatic Element," Table 701.2.4.1.2:2, "Type VIII F Sheeting -

Fluorescent Microprismatic Lens," Table 701.2.4.1.2:3, "Type IX Sheeting - Microprismatic Lens," Table 701.2.4.1.2:4, "Type IX F Sheeting - Fluorescent Microprismatic Element," and Table 701.2.4.1.2:5, "Type XI Retroreflective Sheeting." The Contractor shall conduct testing methods in accordance with ASTM E 810.

Table 701.2.4.1.2:1
Type IV Sheeting - Unmetallized Microprismatic Element

OA	EA	White	Yellow	Orange	Red	Green	Blue	Brown
----	----	-------	--------	--------	-----	-------	------	-------

Table 701.2.4.1.2:1
Type IV Sheeting - Unmetallized Microprismatic Element

OA	EA	White	Yellow	Orange	Red	Green	Blue	Brown
0.2	-4	360	270	145	65	50	30	18
0.2	+30	170	135	68	30	25	14	8.5
0.5	-4	150	110	60	27	21	13	7.5
0.5	+30	72	54	28	13	10	6	3.5

Table 701.2.4.1.2:2
Type VIII F Sheeting - Fluorescent Microprismatic Lens

Minimum reflectivity for fluorescent sheeting (average candle power per foot candle per square foot)		
OA	EA	Orange
0.1	-4	300
0.1	+30	135
0.2	-4	210
0.2	+30	95
0.5	-4	75
0.5	+30	35

Table 701.2.4.1.2:3
Type IX Sheeting - Microprismatic Lens

Minimum reflectivity (average candlepower per foot candle per square foot)							
OA	EA	White	Orange	Yellow	Red	Green	Blue
0.2	-4	380	145	285	76	38	17
0.2	+30	215	82	162	43	22	10
0.5	-4	240	90	180	48	24	11
0.5	+30	135	50	100	27	14	6.0
1.0	-4	80	30	60	16	8.0	3.6
1.0	+30	45	17	34	9.0	4.5	2.0

Table 701.2.4.1.2:4
Type IX F Sheeting - Fluorescent Microprismatic Element

Minimum reflectivity (average candle power per foot candle per square foot)			
OA	EA	Yellow	Yellow/Green
0.2	-4	230	300
0.2	+30	130	170
0.5	-4	145	190
0.5	+30	81	110
1.0	-4	48	64

Table 701.2.4.1.2:4
Type IX F Sheeting - Fluorescent Microprismatic Element

Minimum reflectivity (average candle power per foot candle per square foot)			
OA	EA	Yellow	Yellow/Green
1.0	+30	27	36

Table 701.2.4.1.2:5
Type XI Retroreflective Sheeting

Minimum reflectivity (average candle power per foot candle per square foot)											
OA	EA	White	Yellow	Orange	Green	Red	Blue	Brown	Fluorescent Yellow-Green	Fluorescent Yellow	Fluorescent Orange
0.1	-4	830	620	290	83	125	37	25	660	500	250
0.1	+30	325	245	115	33	50	15	10	260	200	100
0.2	-4	580	435	200	58	87	26	17	460	350	175
0.2	+30	220	165	77	22	33	10	7.0	180	130	66
0.5	-4	420	315	150	42	63	19	13	340	250	125
0.5	+30	150	110	53	15	23	7.0	5.0	120	90	45
1.0	-4	120	90	42	12	18	5.0	4.0	96	72	36
1.0	+30	45	34	16	5.0	7.0	2.0	1.0	36	27	14

701.2.4.1.3 Retroreflective Sheeting Backing

The Contractor shall provide backing for sheeting Types IV through XI in accordance with ASTM D 4956, current version.

701.2.4.1.4 Retroreflective Sheeting Durability and Workmanship

The Contractor shall use retroreflective sheeting Material in accordance with ASTM D 4956, current version. The Contractor shall provide sheeting Material sufficiently strong and flexible enough for handling, processing, and application in accordance with the manufacturer's recommendations without stretching.

When processed and applied in accordance with recommended procedures, sheeting Material must be weather resistant and, following cleaning, must show no discoloration, cracking, blistering, or dimensional change.

When exposed to normal traffic and weather, sheeting Material must not support fungus growth or accumulate dirt that reduce brightness before cleaning to less than 75% of the brightness after cleaning, measured at 0.2° divergence and negative four degrees (-4°) incidence.

The Contractor shall use a sheeting surface that can be refurbished by cleaning and clear protective overcoating in accordance with manufacturer's recommendations.

The Contractor shall apply retroreflective sheeting to a treated substrate, as recommended by the manufacturer. The Contractor shall ensure finished signs have a smooth and uniform surface and that letters and numbers are clean-cut and sharp.

The Contractor shall ensure the sheeting surface is solvent resistant and can be cleaned with a soft, clean cloth dampened with VM & P naphtha or mineral spirits.

701.2.4.1.5 Retroreflective Sheeting Delivery and Handling

If the Contractor provides retroreflective sheeting in continuous rolls, the Contractor shall ensure splices are smooth with no discernible lines and that sheeting is suitable for continuous application.

The Contractor shall use sheeting within the manufacturer's recommended time frame.

701.2.4.1.6 Multiple Pieces of Sign Sheeting

The Contractor shall ensure that sign faces from two (2) or more pieces of retroreflective sheeting match in color and provide uniform appearance and brilliance by Day and night.

The Contractor shall cover sign panels less than 48 inches tall with one (1) unspliced sheet of retroreflective sheeting. The Department will allow a horizontal splice, only if the substrate panel is 48 inches or taller. The Contractor shall ensure sheet colors match.

Sheeting shall be butt spliced when more than one (1) piece of sheeting is used on one (1) piece of substrate per manufacturer's recommendations. The sheeting pieces should not touch each other.

701.2.4.1.7 Screening Inks

The Department will allow use of screening inks, or acrylic film overlays recommended by the retroreflective sheeting manufacturer, instead of manufactured colors to produce the legend and background. The Contractor shall submit the manufacturer's recommendations, in writing, to the Department. The Contractor shall file a copy of the recommendations in accordance with Section 701.2.3.1, "Sign Manufacturer's Quality Control."

The Contractor shall use ultraviolet (UV) resistant inks requiring no additional clear coating or UV protection. The Contractor shall use inks that are one (1) part non-isocyanate Material, easily removed from sign screens with citrus-based environmentally friendly screen cleaning solvents.

701.2.4.1.7.1 Outdoor Weatherability

The Contractor shall use screening inks, or acrylic film overlays with weather-resistant properties equal to retroreflective sheeting.

701.2.4.1.7.2 Adherence

To test for screening ink, process paste, or film overlay adherence, the Contractor shall apply cellophane recording to a cured color processed area, and remove the recording with one (1) quick motion; no ink, paste, or film overlay should come off. The Contractor shall use 3/4 inch wide Cellophane Recording for this test.

701.2.4.1.7.3 Solvent Resistance

After curing, the Contractor shall ensure sign faces resist manufacturer recommended cleaning solvents.

701.2.4.1.7.4 Vandal Resistance

The Contractor shall ensure that sign faces resist manufacturer recommended aromatic solvents used to remove paint or other oil based matter sprayed or painted on signs.

701.2.4.1.7.5 Color

The Contractor shall use a sign face color in accordance with ASTM D 4956, current version.

701.2.4.1.7.6 Retroreflective Intensity (Transparent Colors)

The Contractor shall process and apply transparent colored inks or transparent colored acrylic film overlays in accordance with the sheeting manufacturer's recommendations.

The Contractor shall ensure that the transparent color area processed on white sheeting provides a minimum retroreflective intensity value of at least 70% of the values specified in Table 701.2.4.1.2:1, "Type IV Sheeting - Unmetallized Microprismatic Element," Table 701.2.4.1.2:2, "Type VIII F Sheeting - Fluorescent Microprismatic Lens," Table 701.2.4.1.2:3, "Type IX Sheeting - Microprismatic Lens," Table 701.2.4.1.2:4, "Type IX F Sheeting - Fluorescent Microprismatic Element," and Table 701.2.4.1.2:5, "Type XI Retroreflective Sheeting," for each color at 0.2° OA and negative four degrees (-4°) EA (or 0.1° and/or 1.0° Observation Angles if, specified in the Contract).

701.2.4.1.7.7 Process Colors on Sheeting

The Contractor shall ensure the retroreflective intensity values are 70% of the retroreflective values specified in Section 701.2.4.1.2, "Coefficient of Retroreflection." Corresponding values at 0.2° OA and negative four degrees (-4°) EA are included in Table 701.2.4.1.7.8:1, "Retroreflective Intensity per Process Color."

701.2.4.1.7.8 Process Inks

The Contractor shall ensure that process inks equal 70% of the coefficient of retroreflection of new sheeting and 70% at the end of the warranty period.

**Table 701.2.4.1.7.8:1
Retroreflective Intensity per Process Color**

Type of sheeting	Intensity Value (average candelas per foot candle per square foot)		
	Red	Blue	Green
Type IV Unmetallized Microprismatic Element	24.5	14.0	24.5
Type IX Microprismatic Element	53.2	11.9	26.6
Type XI Retroreflective Sheeting	60.9	18.2	40.6

701.2.4.2 Sign Legends and Sheeting

A sign legend shall contain such letters, numerals, symbols, arrows, borders, and other accessories that convey the sign's message.

Sign legend, background and protective overlay film shall be of the same type in accordance with Section 701.2.4.1, "Retroreflective Sheeting." If a UV or anti-graffiti protective overlay film is used, it should be manufacturers match component Materials and retain manufactures standard warranties.

The Contractor shall provide legends in accordance with *MUTCD, current edition*. The legend may be:

1. 0.005 in minimum thickness integral, semi-rigid;
2. Self-adhering, machine cut sheeting; or
3. Reverse screened using weatherproof screen process inks compatible with the background that provides the designated sign colors and retroreflectorization; or a reverse film overlaid with an approved acrylic film overlay.

The Contractor shall provide extruded panel signs with borders as follows:

1. 1 1/8 inch wide with six (6) inch corner radii for signs under six (6) feet tall;
2. Two (2) inch wide with nine (9) inch corner radii for signs from six (6) feet to 7.5 feet tall; or
3. Three (3) inch wide with 12 inch corner radii for signs over 7.5 feet tall.

701.2.4.3 Sign Backgrounds

The Contractor shall provide a sign face with a plane surface free from defects. The Department may reject the entire sign face because of a defect or because of a dirty, marred, or defective background or legend. The Department will inspect in place signs at night for compliance.

701.2.4.4 Aluminum Panel Signs

The Contractor shall use 0.125 inch minimum thickness 6061-T6 or 5052-H38 aluminum alloy for signs.

The Contractor shall provide aluminum alloys in accordance with ASTM B 209. The Contractor shall supply as flat stock Material. The Contractor shall provide aluminum panel signs with smooth edges and corners.

701.2.4.4.1 Corners

The Contractor shall cut corner radii in accordance with the FHWA Standard Highway Signs manual.

701.2.4.4.2 Aluminum Sign Substrate

The Contractor shall prepare aluminum sign substrate for retroreflective sheeting as specified by the sheeting Material manufacturer. The Contractor shall apply sheeting, legend, and clear coat in accordance with the manufacturer's recommendations. The Contractor shall keep a copy of the manufacturer's recommendations on file as specified in Section 701.2.3.1, "Sign Manufacturer's Quality Control."

The Contractor shall punch or drill a hole in the aluminum sign panel to receive tamper proof hardware.

701.2.4.5 Extruded Panel Signs

The Contractor shall use extrusion-type signs, if mounted on steel I-Beam posts or on overhead sign Structures.

701.2.4.5.1 Aluminum Extrusions

The Contractor shall use 6063-T6 aluminum alloy in accordance with ASTM B 221, provided in 12 inch or six (6) inch sections in accordance with the Contract.

701.2.4.5.2 Sign Fabrication for Extruded Panel Signs

Sign legend and background for Extruded Panel Signs shall be fabricated on a .063 thick aluminum overlay panel. Aluminum overlay panel shall be riveted to the aluminum extrusion panel to complete the extruded sign unless a digital printing process is used.

For sign legend and copy, the Contractor shall submit detail drawings to the Project Manager for review and approval of the State Traffic Technical Support Engineer as per Specifications in Section 701.2.3.5, "Special Coded Signs."

701.2.4.5.3 Aluminum Overlay Panel Fabrication

Aluminum overlay panels shall contain the sign legend and background.

The flatness tolerance for an installed panel is 1/32 inch per foot of length and 0.004 inch per inch of width.

For aluminum overlay panels, the Contractor shall use panel units two (2) feet to four (4) feet wide, installed vertically. The Contractor shall not horizontally splice metal facing sign panels eight (8) ft tall or less.

For horizontal splices on signs taller than eight (8) feet, the Contractor shall offset the metal facing splices from the corresponding extrusion joint by 1/2 inch to one (1) inch.

For aluminum overlay panels, the Contractor shall use a sheet of aluminum 6061-T6 or 5052-H38 alloy in accordance with ASTM B 209, supplied as flat stock Material with a minimum thickness of 0.060 inch.

701.2.4.5.4 Digitally Printed Signs

Signs manufactured using digital printing process with a protective overlay film to produce all or part of the image shall conform to all other requirements of Section 701, "Traffic Signs and Sign Structures" with the exception that for extruded panel signs, reflective sheeting may be adhered directly to aluminum extrusions and aluminum overlay panels do not have to be used.

For digitally printed extruded panel signs without aluminum overlay panels, all or part of the image shall be printed on the required sheeting which then shall be laminated to the aluminum extrusion, and assembled together to finish the extruded panel sign.

For digitally printed aluminum panel signs, overlay panels or extruded panel signs, all or part of the image may be printed before or after the sheeting is laminated to the panel.

701.2.4.5.4.1 Outdoor Weathering of Digitally Printed Signs

Inks applied using digital printing processes with a protective overlay film shall produce standard traffic colors (green, yellow, red, blue, brown, black) and have outdoor weathering properties equal to that of the base reflective sheeting.

701.2.4.5.4.2 Standard Traffic Colors Digitally Printed

Standard traffic colors (green, yellow, red, blue, brown, and black) printed with digital printing technology with a protective overlay film must provide the diffuse daytime color of the retroreflective sheeting in accordance with ASTM D4956-09, current version, Table 11.

701.2.4.5.4.3 Retroreflective Intensity of Digitally Printed Standard Traffic Colors

The coefficient of retro reflection of the standard traffic colors (green, yellow, red, blue, brown, and black) digitally produced on white or yellow sheeting shall provide an initial minimum retroreflective intensity as specified in Section 701.2.4.1.7.6, "Retroreflective Intensity (Transparent Colors)."

701.2.4.5.5 Extrusion Hardware

The Contractor shall use 2025-T4 aluminum alloy extrusions for hardware with an aluminite or alodine finish, in accordance with ASTM B 221.

701.2.4.6 Inspection

The Department may inspect Material and finished signs before and after installation at the Project site.

The Contractor shall ensure that the Department has free entry to plant areas involved in sign manufacture and production during Work hours. The Contractor shall provide adequate facilities for the Department to inspect signs and verify the manufacturer's QC program.

On request, the Contractor shall provide 12 inch × 12 inch test panels representing each production stage to the Inspector. The Contractor shall produce the test panels during regular production in the presence of the Inspector. If the Inspector cannot validate that the test panel came from regular production, the Contractor shall provide a complete sign, upon request.

701.2.4.7 Packaging and Shipping

The Contractor shall package and protect signs and hardware for shipment and storage.

701.2.5 Aluminum Overlay Panels for Existing Extruded Signs

The Contractor shall provide retroreflective sheeting overlay panels that consist of a retroreflectorized face sheet fastened with rivets over an existing extruded sign.

Overlay panel shall be constructed with:

1. 6061-T6 or 5052-H38 aluminum sheet alloy, in accordance with ASTM B 209, a minimum of 0.063 inch thickness. And the Contractor shall use latest Departments Sign Sheeting Requirements for reflective sheeting.

The Contractor shall install overlay panels in accordance with Section 701.2.4.2, "Sign Legends and Sheeting." The Contractor shall remove and repair the existing legend, as directed by the Project Manager.

701.2.6 Sign Structures and Hardware

The Contractor shall select aluminum panel sign and base posts from the Department's *Approved Products List*. The Contractor shall install posts in accordance with NCHRP *Report 350* and/or MASH criteria for single and multiple-post installations, and with the post manufacturer's wind load chart. The Contractor shall supply Certificates of Compliance to the Project Manager.

The Contractor shall use one (1) of the following finishes:

1. Hot dipped galvanizing in accordance with ASTM A 653 or ASTM A 123;
2. Hot dip galvanized zinc coating, in accordance with AASHTO M 120, followed by a chromate conversion coating and a cross-linked polyurethane acrylic exterior coating; or
3. Color No. 17038 black paint or Color No. 14109 green paint for U-channel posts. The Contractor shall provide paint in accordance with Federal Standard 595a, a minimum of one (1) mil thick.

701.2.6.1 Post Assembly Hardware

The Contractor shall use post assembly hardware that is:

1. Hot dipped galvanized or cadmium plated in accordance with ASTM B766-86;
2. Stainless steel; or
3. Mechanically galvanized in accordance with ASTM B545 (Class Fe/Sn 20).

701.2.6.2 Fasteners

The Contractor shall use size M8 tamper-proof carriage bolts to attach signs that are:

1. Hot dipped galvanized, or cadmium plated in accordance with ASTM B766-86;
2. Stainless steel; or
3. Mechanically galvanized in accordance with ASTM B 545 (Class Fe/Sn 20).

The Contractor may use rivets to attach signs. The Contractor shall follow manufacturer's recommendations for installation procedures.

The Contractor shall use size M8 tamper-proof nuts fabricated from C 1008 hot rolled steel, case hardened to R55-60, and plated with zinc yellow dichromate, from 0.002 inch to 0.005 inch thick.

701.2.6.3 Posts for Extruded Panel Signs

The Contractor shall fabricate I-beam posts for extruded panel signs from standard Structural Steel shapes in accordance with ASTM A 36. The Contractor shall use one (1) of the following finishes:

1. Hot dipped galvanizing in accordance with the requirements of ASTM A 123;
2. Cold galvanizing in accordance with the fabrication method approved by the Traffic Services Engineer; or
3. Coating in accordance with Section 545, "Protective Coating of Miscellaneous Structural Steel."

The Contractor shall use posts with fuse plate mechanisms.

701.2.6.4 Overhead Sign Structures

The Contractor shall fabricate overhead sign Structures as specified in the Department approved drawings.

701.2.6.5 Breakaway Base Systems

The Contractor shall use Breakaway base systems that include slip-type connection, hardware, and stub post as specified in the Contract Plan set.

701.2.6.6 Fabrication

701.2.6.6.1 Shop Drawing Submittals & Review

The Contractor shall submit detailed extruded panel sign post shop drawing for ground mounted extruded signs and or detailed overhead sign Structure shop drawings for approval before fabrication.

The Department will review overhead sign Structure shop drawings. The Contractor shall not fabricate extruded sign posts or overhead Structures until the Department has reviewed and approved the shop drawings for the I-beam posts and or the overhead Structures.

701.2.6.6.2 General Fabrication Requirements

The Contractor shall ensure arrangement, letter spacing and height, letter series, symbols, and borders for each sign face are in accordance with the *FHWA Standard Highway Signs* manual and/or current edition of MUTCD.

The Contractor shall shear, blank, saw, or mill Material 1/2 inch thick or less. The Contractor shall saw or mill Material over 1/2 inches thick.

The Contractor shall ensure that cut edges are true, smooth, and free from excessive burrs or ragged breaks. The Contractor shall fillet re-entrant cuts by drilling before cutting. Flame cutting is prohibited.

The Contractor shall drill bolt holes to finish sizes.

The Contractor shall shop assemble extrusions, overlay panels, and legend items. The Contractor shall ensure that overlay panels are tightly butted together. The Contractor shall use additional fasteners, as needed, to achieve flatness. The Contractor may deliver assembled signs more than eight (8) ft high in two (2) parts.

701.2.6.6.3 Fabrication Requirements for Contact Surfaces

The Contractor shall use galvanized or stainless steel for surfaces in contact with aluminum.

The Contractor shall coat aluminum surfaces in contact with concrete or earth with an alkali resistant asphalt paint in accordance with manufacturer's recommendation.

701.3 CONSTRUCTION REQUIREMENTS

701.3.1 General

The Contractor shall deliver removed, existing traffic control signs to locations specified in

the Contract, or as directed by the Project Manager. The Contractor shall document removals and deliveries in the Traffic Control Diary in accordance with Section 618, "Traffic Control Management."

701.3.1.1 Installation of Breakaway Sign Posts

The Contractor shall ensure that slope and other Material does not interfere with the proper functioning of installed sign Breakaway systems.

701.3.1.2 Manufacturer Certification Verification

The Contractor shall supply signs with identification on the back as specified in Section 701.2.3.4, "Sign Identification," that matches the approved sign manufacturer identified by the documentation letter.

The Contractor shall not install permanent signs until the Project Manager has:

1. Verified that the sign shipment has a manufacturer's checklist; and
2. Given authorization to begin sign installations.

The Contractor shall use the manufacturer for which certification was requested.

701.3.2 Site Storage Requirements

The Contractor shall elevate stored Materials from the ground and surface runoff water. The Contractor shall store signs posts and hardware away from pavement or Shoulder.

701.3.3 Installation Requirements

The Contractor shall compact sign Structure footing foundations and backfill to 95% of maximum density as determined by AASHTO T 180 (Modified Proctor), Method D (TTCP Modified).

The Contractor shall set posts plumb. The Contractor shall ensure that the mounting faces of multiple sign posts lie in the same plane.

701.3.4 Reserved

701.3.5 Removing and Resetting Traffic Signs

The Contractor shall remove existing traffic signs, posts, and associated appurtenances from specified locations and reset on new posts with new hardware redesigned for existing conditions, in accordance with Section 618, "Traffic Control Management."

Before removing existing signs, the Contractor shall submit a sign removal and resetting schedule to the Project Manager for approval.

701.3.5.1 Removing and Resetting Extruded Panel Signs

The Contractor shall remove specified existing extruded panel signs, I-beam posts, and footing, and dispose of the Materials in an environmentally Acceptable manner. The Contractor shall stockpile removed I-beam posts at locations specified in the Contract. The Contractor shall reset removed extruded panel signs on new I-beam posts and Breakaway base systems using new hardware in accordance with Section 701.2.6.3, "Posts for Extruded Panel Signs," and Section 701.2.6.5, "Breakaway Base Systems." The Contractor shall

design new extruded panel sign posts, new Breakaway base systems, and new hardware for existing conditions in accordance with the manufacturer's recommendations and as specified in the Contract.

The Contractor shall backfill holes left by the removal of extruded panel sign post footings and compact in accordance with Section 203, "Excavation, Borrow, and Embankment."

701.3.6 Mileposts Installation

The Contractor shall notify the Project Manager two (2) weeks before placing mileposts; the District Traffic Engineer will mark the milepost locations.

701.4 METHOD OF MEASUREMENT

The Department will not measure that portion of *Steel I-Beam Posts* extending below ground level.

The Department will not include stub post lengths in the measurement of *Steel I-Beam Post* lengths.

701.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Extruded Panel Signs</i>	Square Foot
<i>Panel Signs</i>	Square Foot
<i>Overhead Sign Structure, Type _____, Size _____</i>	Each
<i>Steel I-Beam Posts, Type _____ x _____</i>	Linear Foot
<i>Breakaway Base System for Steel I Beam Post _____ x _____</i>	Each
<i>Steel Posts & Base Posts for Aluminum Panel Signs</i>	Foot
<i>Multi-Directional Slip Base Posts for Aluminum Panel Signs</i>	Each
<i>Retroreflective Sheeting Field Overlay Panels</i>	Square Foot
<i>Remove and Reset Traffic Sign</i>	Each
<i>Remove and Reset Panel Sign</i>	Each
<i>Remove and Reset Extruded Panel Sign</i>	Each

The Department will pay for overhead sign structure foundation installations in accordance with Section 502, "Drilled Shafts."

The Department will pay for steel reinforcement used for overhead sign structure foundations in accordance with Section 540, "Steel Reinforcement."

701.5.1 Work Included in Payment

The following Work and items will be considered as included in the payment for the main items and will not be measured or paid for separately:

1. Hardware;
2. Excavation, backfill, and compaction for installation;
3. Excavation, backfill, and compaction for removed extruded panel sign footings;
4. Reinforcing steel for extruded panel sign foundations;

5. Class A Concrete for extruded panel sign foundations and multi-directional slip base posts;
6. Hauling and disposal of removals; and
7. Hauling and stockpile of salvageable Materials.

SECTION 702: CONSTRUCTION TRAFFIC CONTROL DEVICES

702.1 DESCRIPTION

This Work consists of providing and installing construction traffic control devices.

702.2 MATERIALS

702.2.1 Construction Signing

The Contractor shall provide sign substrate sufficiently durable to last the Project duration and rigid enough to hold the sheeting flat.

The Contractor shall provide Materials in accordance with Section 701.2.4.1, "Retroreflective Sheeting;" Section 701.2.4.2, "Sign Legends and Sheeting;" and Section 701.2.4.3, "Sign Backgrounds."

The Contractor shall provide Type VIII or greater retroreflective sheeting for construction signing, flagger paddle, drums, cones, and channelization devices for legends and sign backgrounds, unless otherwise specified in the Contract.

The Contractor shall use black letters on a reflective fluorescent orange background for construction signing, unless otherwise specified in the Contract.

The Contractor shall provide Type XI or greater intensity retroreflective sheeting for background of regulatory signs.

702.2.1.1 Steel Posts and Base Posts for Construction Signing

The Contractor shall provide steel post and base post Material in accordance with Section 701.2.6, "Sign Structures and Hardware."

702.2.1.2 Portable Sign Supports

The Contractor shall provide portable sign supports in accordance with the *MUTCD*, *current edition* and the Department's *Approved Products List*.

702.2.2 Barricades and Channelization Devices

The Contractor shall provide traffic control devices in accordance with the Department's *Approved Products List* for barricades and channelization devices, available from the State Maintenance Bureau.

Suppliers proposing traffic control devices for inclusion on the Department's *Approved Products List* must submit product certifications for approval. The Department will review and approve or deny the proposed certifications within 30 Days.

Unless stated otherwise, the Contractor shall submit, to the Project Manager, certification from the manufacturer stating that the traffic control devices proposed for use are in accordance with *NCHRP Report 350 and/or MASH*. The Contractor shall submit certification showing that the proposed traffic control devices are listed on the Department's *Approved Products List*.

The Contractor shall use traffic control devices from the following categories:

1. Category I Traffic Control Devices. Low mass, single piece traffic cones; tubular markers; pedestrian devices; single-piece drums; delineators; or similar devices without lights or signs.
2. Category II Traffic Control Devices. Vertical panels; Type I, II, and III barricades; temporary ADA pedestrian devices; moveable skid mounted sign stands; or similar devices.

702.2.2.1 Barricades

The Contractor shall use reflectorized barricades with orange and white retroreflective sheeting or recording in accordance with the *MUTCD, current edition* and Table 701.2.4.1.2:1, "Type IV Sheeting - Unmetallized Microprismatic Element," and Table 701.2.4.1.2:2, "Type VIII F Sheeting - Fluorescent Microprismatic Lens."

702.2.2.2 Vertical Panels

The Contractor shall use reflectorized vertical panels with orange and white retroreflective sheeting or recording in accordance with the *MUTCD, current edition* and Table 701.2.4.1.2:1, "Type IV Sheeting - Unmetallized Microprismatic Element," and Table 701.2.4.1.2:2, "Type VIII F Sheeting - Fluorescent Microprismatic Lens."

702.2.2.3 Traffic Markers

The Contractor shall provide traffic marker Materials in accordance with Section 703, "Traffic Markers."

702.2.2.4 Drums

The Contractor shall provide non-metal drums in accordance with the *MUTCD, current edition* and as approved by the Project Manager. The Contractor shall use only one (1) size drum on the Project.

The Contractor shall use reflectorized drums with fluorescent orange and white high-performance retroreflective sheeting or recording. The Contractor shall use horizontal, circumferential, fluorescent orange and white reflectorized stripes from four (4) inches to six (6) inches wide for drum marking. The Contractor shall ensure the number of alternating fluorescent orange and white reflectorized stripes and the amount of non-reflective drum surface space is in accordance with the *MUTCD, current edition*.

The Contractor shall provide drums that are a minimum 36 inches high and 18 inches diameter with a closed top, and either a sand-ballasted, preformed rubberized, or tire sidewall-collared base, in accordance with the manufacturer's recommendations.

702.2.2.4.1 Warning Lights

The Contractor shall provide either Type "A" low intensity, Type "B" high intensity, or Type "C" steady-burn warning lights in accordance with the *MUTCD, current edition*.

702.2.2.4.2 Flexible High-Performance Reflective Sheeting

The Contractor shall provide retroreflective sheeting and adhesive Materials in accordance with Section 701, "Traffic Signs and Sign Structures," except provide Type VIII or greater intensity retroreflective sheeting.

The Contractor shall provide sheeting with a pre-coated adhesive protected by a removable liner. The Contractor shall apply to channelization devices in accordance with manufacturer's recommendations.

702.2.2.4.2.1 Sheeting Flexibility

The Contractor shall use sheeting that does not exhibit cracking when bent around a 1/8 inch mandrel in one (1) second, after conditioning for 24 h at 32 °F with the liner removed. The Contractor shall test by spreading talcum powder on adhesive and bending with the adhesive side contacting the mandrel.

702.2.2.4.2.2 Adhesive

The Contractor shall provide pressure sensitive adhesives for use on substrates, other than plasticized PVC, in accordance with Section 701.2.4.1, "Retroreflective Sheeting."

702.2.2.4.2.3 Adhesive Backing Testing

The Contractor shall test pressure sensitive adhesive backing on flexible high performance sheeting in accordance with FHWA Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP-96), Section 718. Backing adhesive must support a 1 3/4 lb weight for five (5) min without peeling away more than one (1) inch if applied to a smooth aluminum surface.

702.2.2.4.2.4 Reflectivity

The Contractor shall provide flexible high-performance sheeting that meets or exceeds the minimum reflectivity requirements in Table 701.2.4.1.2:1, "Type IV Sheeting – Unmetallized Microprismatic Element," and Table 701.2.4.1.2:2, "Type VIII F Sheeting - Fluorescent Microprismatic Lens."

702.2.2.5 Traffic Cones

The Contractor shall provide traffic cones in accordance with the MUTCD, current edition and having a flexible cone (above the base) with an outer section made of a highly pigmented fluorescent orange polyvinyl compound.

The Contractor shall provide cones at least 28 inches tall weighing at least ten (10) lb with a base alone weighing seven (7) lb, with a distribution of cone weight effectively holding the traffic cones upright under traffic conditions.

If approved by the Project Manager, the Contractor shall use tubular traffic markers manufactured, installed, and maintained in accordance with Section 703, "Traffic Markers," instead of traffic cones.

702.2.3 Sequential Arrow Displays

The Contractor shall use a sequential arrow display consisting of a sign panel assembly and a power source. The Contractor shall mount the display on a two (2)-wheeled trailer or on a vehicle for mobile operations. The Contractor shall provide a sequential arrow display in accordance with the *MUTCD, current edition* Specifications for arrow displays. The Contractor shall use Type B panels for mobile operations and Type C panels for stationary traffic control. The Contractor shall provide a trailer in accordance with Section 702.2.4.5, "Trailer." The Contractor shall provide a display powered by diesel or solar power or one that connects to an external power supply. The Contractor shall ensure electrical connections meet or exceed the

applicable electrical code requirements. The Contractor shall provide solar-powered systems with a battery-backup power supply capable of maintaining operation for a minimum of 12 consecutive 24-hour Days.

702.2.3.1 Operating Modes

The Contractor shall ensure that displays are capable of the following operating modes (see the *MUTCD, current edition* Specifications for advance warning arrow display):

1. Pass Left - Three (3) chevrons of five (5) lamps each sequencing right-to-left;
2. Pass Right - Three (3) chevrons of five (5) lamps each sequencing left-to-right;
3. Pass Either Side - Two (2) outermost chevrons on each end of the panel pointing outward forming arrowheads with crossing lamp rows burning continuously. Do not burn the first lamp directly behind the point of each arrow, to define the arrow points; and
4. Caution - Four (4) lamps, one (1) at each corner of the panel.

702.2.4 Portable Changeable Message Signs

Portable changeable message signs will consist of a sign panel assembly, controller, power supply, and structural support system mounted on a two (2)-wheeled trailer. The Contractor shall supply new portable changeable message signs if the Contract specifies that the Department will retain the message signs upon Final Acceptance.

702.2.4.1 Sign Panel Assembly

The Contractor shall provide a sign panel consisting of a three (3)-line panel assembly. The Contractor shall ensure that each line contains eight (8) matrices capable of producing at least eight (8) individually changeable characters. The Contractor shall ensure that each character module uses, as a minimum, a five (5)-wide pixel by seven (7)-high pixel matrix, with each matrix measuring at least 18 inches high and nine (9) inches wide.

The Contractor shall ensure a clearly displayed message on the sign panel that is legible from a distance of 800 ft during daytime and nighttime operation at angles in accordance with the *MUTCD, current edition* Specifications for portable changeable message signs.

702.2.4.2 Controller

The Contractor shall provide a compact controller located to allow easy access to sign and message functions from a control cabinet on the trailer.

The Contractor shall provide a solid-state unit controller capable of generating and storing sign messages.

The Contractor shall provide a controller keyboard that allows the user to recall and use messages from permanent memory storage containing a library of standard messages. The controller will also have the capacity to store, recall, and use at least 50 additional messages generated by the operator.

The Contractor shall use a controller with a protective device that requires an entry code to access the memory and display messages to prevent unauthorized programming.

702.2.4.3 Power Supply

The Contractor shall provide a power unit capable of powering the message sign continuously for at least 21 consecutive 24-hour Days, with a fail-safe backup power supply system, and capable of being powered directly by a 120 V AC external power supply.

702.2.4.4 Structural Support Systems

The Contractor shall provide a structural support system with a mechanism capable of raising and lowering the sign panel at sustained wind speeds of 55 mph, and capable of operation by one (1) person without use of heavy Equipment. The Contractor shall ensure a clearance of at least seven (7) ft between the sign panel bottom and the pavement surface, when fully raised.

702.2.4.5 Trailer

The Contractor shall use a two (2) -wheel single-axle system trailer with a suspension rated at no less than 2,000 lb.

The Contractor shall provide a trailer equipped with the following:

1. Four (4) non-removable leveling jacks, one (1) at each corner of the trailer,
2. A tongue and either a towing eye, for use with the pintle hook, or a ball receptacle, for a ball-type trailer hitch. Fabricate a 2 1/2 inches inside diameter towing eye from one (1) inch round, solid steel. Size the ball receptacle to accept a standard two (2) inch ball;
3. Two (2) safety chains with 1/4 inch diameter links. Install one (1) chain on each side of the draw bar and extend 24 inches beyond the towing eye. Install a safety hook on the outer end of each chain;
4. Two (2) combination tail, turn, and stop lights;
5. A license plate bracket and illumination lamp;
6. A standard SAE seven (7)-way trailer light wire connector on a cable extending 24 inches beyond the towing eye; and
7. A means of securing a receptacle on the trailer tongue.

702.2.5 Temporary Signal Span

The Contractor shall provide poles and associated electrical items for temporary signal spans in accordance with Section 715, "Beacons and Temporary Signal Equipment."

702.3 CONSTRUCTION REQUIREMENTS

702.3.1 General

The Contractor shall provide construction traffic control devices in accordance with *MUTCD, current edition* and *NCHRP Report 350*. Construction traffic control devices shall remain the property of the Contractor, unless otherwise specified in the Contract.

The Contractor shall install signs, steel posts, and base posts in accordance with the requirements of Section 701, "Traffic Signs and Sign Structures." The Contractor shall provide drums equipped with Type "C" steady-burn warning lights on channelization recordings, if in night operation.

The Contractor shall install traffic markers in accordance with the requirements of Section 703, "Traffic Markers."

The Contractor shall use Type A or Type B flashing warning lights and flags to call attention to advance warning construction signing.

The Contractor shall use Traffic Cones only during daylight hours.

The Contractor shall completely cover all conflicting signs within or in advance of the Work zone with an opaque non-light transmitting Material so as not to damage the sign. Failure to adhere to this requirement will result in the Contractor replacing the sign at no cost to the Department.

702.3.1.1 Portable Sign Support System

Portable sign stands for rigid signs must be capable of accommodating rigid signs, 30 in. X 30 in. to 48 in. X 48 in. Unit must be transportable as a secure unit. Base shall be adequate to support the stand and signs without bending and to be light weight. Retaining brackets shall be provided to adequately secure the sign to the portable sign support.

702.3.1.2 Temporary Signal Spans

The Contractor shall use temporary signal spans consisting of poles and associated electrical items in accordance with Section 715, "Beacons and Temporary Signal Equipment."

The Contractor shall remove temporary signal spans after Project Detours are removed, or as directed by the Project Manager.

702.3.2 Maintenance

The Contractor shall maintain the traffic control plan and devices in accordance with Section 618, "Traffic Control Management."

The Contractor shall keep construction traffic control devices clean so that the intended visibility is not diminished. The condition of construction traffic control devices is subject to Department approval.

702.4 METHOD OF MEASUREMENT—Reserved

702.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Construction Signing</i>	Square Foot
<i>Steel Posts and Base Posts for Construction Signing</i>	Linear Foot
<i>Barricade, Type_____</i>	Each
<i>Vertical Panel, Type_____</i>	Each
<i>Construction Traffic Marker</i>	Each
<i>Portable Sign Support</i>	Each
<i>Channelization Device, Type_____</i>	Each
<i>Sequential Arrow Display</i>	Each
<i>Portable Changeable Message Sign</i>	Each
<i>Traffic Cone</i>	Each
<i>Temporary Signal Span</i>	Lump Sum

702.5.1 Work Included in Payment

The following Work and items will be considered as included in the payment for the main items and will not be measured or paid for separately:

1. Supports required for vertical panels and poles, and all associated electrical and mechanical items for temporary signal span;
2. Moving of construction traffic control devices from one (1) location to another, maintenance, and repair or replacement of damaged or destroyed traffic control devices;
3. Additional traffic control device quantities approved and implemented solely for the Contractor's convenience;
4. Type "A" low-intensity warning lights, Type "B" high-intensity warning lights, or Type "C" steady-burn warning lights and signing which are attached to barricades, drums and construction signs;
5. Removal of signs and devices as well as all other items associated with and required for installation or function of devices used for construction traffic control devices;
6. Covering all conflicting signs within or in advance of the Work zone with an opaque non-light transmitting Material; and
7. In the event of a Compensable Delay, the devices owned by the Contractor are not eligible for additional compensation. Devices leased by the Contractor may be eligible for additional compensation based on actual costs incurred.

SECTION 704: PAVEMENT MARKINGS

704.1 DESCRIPTION

This Work consists of providing Materials, labor, and Equipment for placement of retroreflectorized painted markings high durable (HD) 100 % acrylic waterborne traffic paint in accordance with these Specifications, the manufacturer's Specifications, the current edition of the MUTCD, and in compliance with the lines, grades, dimensions, and details shown in the Contract.

704.2 MATERIALS

1. Traffic paint shall conform to the requirements of the Department's latest Specifications for Traffic paint, Designation M-TPC-WBACRHB. Copies of this Specification are available from Traffic Services Engineer.
2. Reflectorized glass beads shall conform to the requirements of the Department's latest specifications for glass beads, Designation MGRB, Type DAB. Copies of this Specification are available from Traffic Services Engineer.

704.2.1 Material Sampling, Testing, and Acceptance of Materials

The Contractor shall provide Certificates of Compliance and documentation that the State Materials Bureau has tested the batch of paint. At the discretion of the Project Manager, the Department may take random samples of the traffic paint for testing. The Department will reject traffic paint used before submitting the proper documentation, if the test results do not meet the Specifications.

The Contractor shall submit to the State Materials Bureau samples of traffic paint and glass beads as per NMDOT Traffic Paint Sampling and Testing Procedures. The State Materials Bureau will test samples for compliance and issue a report as designated in current Departments Specifications for Traffic Paint and Glass Beads. The Department reserves the right to have an inspector present to observe the sampling or manufacturing process. Copies of traffic paint sampling procedures are available from Traffic Services Engineer or State Materials Bureau.

The Contractor shall furnish each Project a certificate with reference to the State Materials Bureau test control number, indicating that Materials provided to the Project have been tested and accepted by the State Materials Bureau, verifications of the certification will be made by Project personnel checking the batch or lot number on the traffic paint or glass beads furnished to the Project.

704.3 CONSTRUCTION REQUIREMENTS

704.3.1 General Standard Procedures

The Contractor shall place the traffic paint and beads on the roadway surface using a pavement marking machine. Application shall be during daylight hours and when the pavement surface is dry and the weather is not foggy, rainy, excessively windy, or otherwise detrimental to the application of markings. The Contractor shall remove excess asphalt or other deleterious substances, dirt, debris, grease, motor oils, rocks, or chips from the pavement surface prior to applying markings. Pavement markings must be installed as per manufacturer's recommendation or as directed by Project Manager, this includes the use of cold weather additives.

The Contractor shall provide the necessary personnel and Equipment to divert traffic from the installation area while the Work is in progress and during the no track or drying time of the Pavement Marking Material.

704.3.2 Equipment for Painted Markings

The machine shall be self-propelled spray type and equipped with an arrow board and warning lights sufficient to aid in traffic control. The Department will allow placing temporary striping during construction with other Equipment designed for application of paint and glass beads as approved by the Project Manager.

1. The Contractor shall use a machine capable of applying clearly defined markings within the designated width as specified on Section 704.3.6, "Dimension Tolerances" on Project Plans or Standard Drawings.
2. The machine must be equipped with a device capable of producing various lengths of painted segments and gaps that do not vary more than six (6) inches for a 40 ft cycle.
3. The machine shall be equipped with air-operated paint and glass bead dispensers capable of producing markings as per 704.1.3.5, "Rates and Tolerances for Painted Markings."

704.3.3 Striping Operations Traffic Control Requirements

The Contractor shall submit a traffic control plan in accordance with the MUTCD, current edition, to the Project Manager for approval prior to placing markings unless the Contract already provides an approved Plan.

704.3.4 Number of Applications and Retroreflectivity

Permanent reflectorized painted markings consist of two (2) applications, unless otherwise specified in the Contract. The second application shall not be placed sooner than ten (10) Days after the first application. Subsequent applications, as called for in the Contract, shall not be placed sooner than one (1) Day after the previous application.

The Project Manager will, at their discretion, measure the retroreflectivity of the markings using 30-M geometry in units of mcd/m²/lux. The markings will be measured within twenty-one (21) days of the final application. The measurements will be taken every ¼ mile per line and an average will be calculated for every-mile per line. See Table 704.3.4:1, "Minimum Reflective Values for Painted Markings for Tolerances."

**Table 704.3.4:1
Minimum Reflective Values for Painted Markings for Tolerances**

White Painted Markings (mcd/m²/lux)	Yellow Painted Markings (mcd/m²/lux)
250	150

704.3.5 Rates and Tolerances for Painted Markings

For Permanent markings, apply paint at a rate of 22 to 25 wet mills, (25.15 gal per mile of paint for a solid four (4) inch line 6.31 gal per mile for a broken four (4) inch line). The Contractor shall apply other widths of striping at appropriate multiples of these minimum rates for solid and broken paint stripes.

For Temporary markings, the Contractor shall apply paint at a rate of 15 wet mills (16.5 gal per mile of four (4) inch solid and 4.13 gallons per mile for broken four (4) inch line.)

Glass beads shall be applied at a minimum rate of six (6) lb to each gallon of paint for both permanent and temporary markings.

Measurement of the volume of paint and beads in the tanks per one (1) of the following measurement methods:

1. Strap measurement; a calibrated rod marked with the equivalent volumes. Provide certification for the volumes of the paint and bead tanks;
2. Calibrated, readable external tank marks indicating a volume equivalent for the tank; or
3. Electronic device (Data Logging System) capable of recording and reporting Material usage and application rates.

704.3.6 Dimension Tolerances

Transverse gap dimensions between centerline stripes for two (2) and combinations using a three (3) paint gun set up on striping machine:

1. Place the broken line on the centerline of the Roadway with the respective left and right no passing zone stripes placed with a two (2) inch gap between the broken and solid no passing zone stripes;
2. Eight (8) inch gap between standard double yellow markings, and two (2) inch gap for narrow double yellow;
3. Tolerance of four (4), six (6), eight (8), 12 and 24 inch lines shown on plans shall be plus or minus 1/8 inch. Legends and symbols shall be in accordance with the applicable shapes and sizes in the MUTCD, current edition;
4. Standard skip pattern is ten (10) foot stripe and thirty (30) foot gap (40-foot cycle) plus or minus six (6) inches per cycle, other cycles as per Departments Standard Drawings;
5. The pavement markings shall be placed in proper alignment with guidelines established on the Roadway, deviation from the alignment established shall not exceed two (2) inches per 200 feet of Roadway nor shall any deviation be abrupt; and
6. Markings shall be offset at least two (2) inches from longitudinal construction joints.

704.3.7 Repair and Replacement of Unacceptable or Damaged Striping

The Contractor shall remove, replace or repair the striping if:

1. Paint does not adhere to the pavement;
2. Glass beads do not adhere to the paint or if reflectivity is less than 50%; or
3. The second application of pavement markings is not placed over the first application of markings in accordance with Section 704.1.3.5, "Rates and Tolerances."

The Contractor shall repair damage to pavement markings due to negligence or failure to maintain traffic control at no additional cost to the Department.

704.4 METHOD OF MEASUREMENT

No payment will be made for the number of skips (spaces) in long line pavement marking

applications.

The Department will measure permanent and temporary Retroreflectorized Painted Markings for four (4) inch, six (6) inch, eight (8) inch, 12 inch, and 24 inch widths using multiples of the standard four (4) inch width to calculate a total length. Legends, symbols and specialty markings will be paid by each.

The Department will measure each application for payment.

Table 704.4:1
Permanent Painted Markings Volume Control

Measured Rate of Application Paint-Gallons/Mile		Reduction
27.43 to 24.14		0%
24.13 to 20.85		10%
20.84 to 17.75		25%
<17.75		50%
Measured Rate of Application Glass Beads	Pounds/Gal.	Reduction
	6.0 – 5.0	0%
	4.9 – 4.0	17%
	3.9 – 3.0	33%
	<3.0	50%

704.5 BASIS OF PAYMENT

Pay Item Pay	Unit
Reflectorized Painted Markings____inch	Foot
Temporary Reflectorized Painted Markings____ inch	Foot
Reflectorized Painted Arrow, type____	Each
Reflectorized Painted Word (____)	Each
Reflectorized Painted Symbol, type____	Each
Retroreflectorized Painted Railroad Crossing	Each

704.5.1 Payments

The Department will not pay for striping until the Project Manager receives the required certification and documentation. If the Project Manager determines that the *volumes* of paint and glass beads were not installed as per Departments Specifications, the Department will reduce payment in accordance with Table 704.4.1, "Permanent Painted Markings Volume Control."

At their discretion, the Project Manager will observe the striping at night to determine whether the striping is Acceptable or if re-striping is necessary. If striping is not Acceptable, it shall be restriped at no additional cost to the Department.

704.5.2 Work Included in Payment

The following Work and items will be considered as included in the payment for the main items and will not be measured or paid for separately:

1. Removal of temporary marking tape;
2. Repair or replacement of damaged striping due to Contractor's negligence or

- operations;
- 3. Standard surface preparation;
- 4. Maintaining and protecting the pavement markings from traffic during the marking operations;
- 5. Mobile traffic control operations for long line traffic marking operations;
- 6. Black out line for contrast markings; and
- 7. Cold weather additives.

SECTION 721: PAVEMENT MARKING REMOVAL

721.1 DESCRIPTION

This Work consists of providing labor and Equipment for removal of linear markings, cross walks, stop bars, legends and symbols as well as removal of curing compound on new concrete Roadway surfaces as specified in the Contract or as directed by the Project Manager.

721.2 MATERIALS—Reserved

721.3 CONSTRUCTION REQUIREMENTS

Pavement markings shall be removed from the pavement to the maximum extent possible by method of water blasting that does not Materially alter or damage the surface, to the satisfaction of the Project Manager. Operations that do not produce the desired result, damage the pavement, or may constitute a hazard to the traveling public will not be permitted. Materials deposited on the pavement as a result of removal of pavement markings shall be promptly removed so as not to interfere with traffic or Roadway drainage.

Pavement markings designated to be removed, shall be removed before any change is made in new traffic patterns. Temporary markings conflicting with permanent pavement markings shall be removed prior to placement of the permanent pavement markings. All temporary recording shall be removed on sections where these markings conflicts with revised traffic lanes prior to opening of new lanes to traffic.

New concrete pavement surfaces that have curing compound on them, and require new pavement markings, shall be cleaned as per pavement markings manufactures recommendations for surface preparation. A dustless-abrasive shot blasting, water blasting, or other approved cleaning method may be used. The removal process shall remove all curing compound and its residue, all loose dust and dirt from the areas where primer and or new pavement markings are to be installed.

The Contractor shall remove temporary pavement stripes and markings when the Project Manager determines that they are no longer required for traffic control. The Contractor shall not use non-reflective black removable marking tape or paint to obliterate temporary pavement markings.

The Contractor shall provide the necessary personnel and Equipment to warn and divert traffic during installation and removal of temporary markings from the area where the Work is in progress.

The Contractor shall remove and dispose of debris as directed by the Project Manager.

721.4 METHOD OF MEASUREMENT

The Department will measure removal of pavement markings or remove of curing compound by four (4) inch, six (6) inch, eight (8) inch, twelve (12) inch, and twenty-four (24) inch widths per linear foot. Legends, symbols, and specialty markings will be paid by each.

721.5 BASIS OF PAYMENT

Pay Item	Pay Unit
<i>Removal of Pavement Marking</i>	Foot

<i>Removal of Pavement Marking Symbol</i>	Each
<i>Removal of Curing Compound for markings</i>	Foot
<i>Removal of Curing Compound for Symbol</i>	Each

721.5.1 Work Included in Payment

The following Work and items will be considered as included in the payment for the main items and will not be measured or paid for separately:

1. Repair of damaged pavement; and
2. Providing the necessary personnel and equipment to warn and divert traffic during installation and removal of temporary markings.

**PAVEMENT REHABILITATION AND RESTRIPIING VARIOUS STREETS
CITY OF BLOOMFIELD**

ATTACHMENT 1

WORKFORCE SOLUTIONS WAGE DECISION, PROJECT REQUIREMENTS,

WAGE RATES

**LABOR RELATIONS DIVISION**

401 Broadway NE
Albuquerque, NM 87102
Phone: 505-841-4400
Fax: 505-841-4424

226 South Alameda Blvd
Las Cruces, NM 88005
Phone: 575-524-6195
Fax: 575-524-6194

WWW.DWS.STATE.NM.US

1596 Pacheco St, Suite 103
Santa Fe, NM 87505
Phone: 505-827-6817
Fax: 505-827-9676

Wage Decision Approval Summary

1) Project Title: Pavement Rehabilitation and Restriping Various Streets
Requested Date: 08/03/2021
Approved Date: 08/05/2021
Approved Wage Decision Number: SJ-21-1530-A

Wage Decision Expiration Date for Bids: 12/03/2021

2) Physical Location of Jobsite for Project:
Job Site Address: 1152 S. Church St
Job Site City: Bloomfield
Job Site County: San Juan

3) Contracting Agency Name (Department or Bureau): City of Bloomfield
Contracting Agency Contact's Name: Jason Thomas
Contracting Agency Contact's Phone: (505) 333-7816 Ext.

4) Estimated Contract Award Date: 09/13/2021

5) Estimated total project cost: \$300,000.00
a. Are any federal funds involved?: No
b. Does this project involve a building?: No
c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No
d. Are there any other Public Works Wage Decisions related to this project?: No
e. What is the ultimate purpose or functional use of the construction once it is completed?: Pavement Rehabilitation, Chip Sealing, and restriping various streets

6) Classifications of Construction:

Classification Type and Cost Total	Description
Highway/Utilities (A) Cost: \$300,000.00	Pavement rehabilitation, chip sealing, and restriping various streets.

PUBLIC WORKS PROJECT REQUIREMENTS

As a participant in a Public Works project valued at more than \$60,000 in the state of New Mexico, the following list addresses many of the responsibilities that are defined by statute or regulation to each project stakeholder.

Contracting Agency

- Ensure that all contractors wishing to bid on a Public Works project when the project is \$60,000 or more are actively registered with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.
- Please submit Notice of Award (NOA) and Subcontractor List(s) to the PWAA website promptly after the project is awarded.
- Please update the Subcontractor List(s) on the PWAA website whenever changes occur.
- All sub-contractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.
- Ninety days after project completion please go into the PWAA system and close the project. Only contracting agencies are allowed to close the project. Agents or contractors are not allowed to close projects.

General Contractor

- Provide a complete Subcontractor List and Statements of Intent (SOI) to Pay Prevailing Wages for all contractors, regardless of amount of work, to the contracting agency within 3 (three) days of award.
- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- Confirm the Wage Rate poster, provided in PWAA, is displayed at the job site in an easily accessible place.
- When the project has been completed, make sure the Affidavits of Wages Paid (AWP) are sent to the contracting agency.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.



LABOR RELATIONS DIVISION
121 Tijeras Ave NE, Suite 3000
Albuquerque, NM 87102
Phone: 505-841-4400
Fax: 505-841-4424

WWW.DWS.STATE.NM.US

Subcontractor

- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.

Additional Information

Reference material and forms may be found in the New Mexico Department of Workforce Solutions Public Works web pages at: <https://www.dws.state.nm.us/Labor-Relations/Labor-Information/Public-Works>.

CONTACT INFORMATION

Contact the Labor Relations Division for any questions relating to Public Works projects by email at public.works@state.nm.us or call (505) 841-4400.



TYPE "A" - STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING

Please refer to the base and fringe rate columns that pertain to the date your wage decision was approved. For instance, if your wage decision was approved on April 1, 2021, you will use the rates in the first two columns. If your wage decision was approved on May 10, 2021, use the third and fourth columns.

Trade Classification	Effective January 1, 2021 Through May,4 2021		Effective May 5, 2021	
	Base Rate	Fringe Rate	Base Rate	Fringe Rate
Bricklayer/Block layer/Stonemason	24.46	8.81	24.46	8.81
Carpenter/Lather	25.63	11.74	24.63	11.24
Carpenter- Los Alamos County	28.37	13.44	27.80	13.19
Cement Mason	17.42	6.81	17.42	6.81
Ironworker	27.35	17.49	27.00	15.75
Painter- Commercial	17.25	7.75	17.00	6.88
Plumber/Pipefitter	31.52	12.90	30.76	11.62
Electricians- Outside Classifications: Zone 1				
Ground man	23.74	13.16	23.27	12.67
Equipment Operator	34.06	15.94	33.39	15.35
Lineman/ Technician	40.07	17.57	39.28	16.91
Cable Splicer	44.08	18.65	43.21	17.95
Electricians-Outside Classifications: Zone 2				
Ground man	23.74	13.16	23.27	12.67
Equipment Operator	34.06	15.94	33.39	15.35
Lineman/ Technician	40.07	17.57	39.28	16.91
Cable Splicer	44.08	18.65	43.21	17.95
Electricians-Outside Classifications: Los Alamos				
Ground man	24.42	13.34	23.94	12.85
Equipment Operator	35.04	16.21	34.35	15.60
Lineman/ Technician	41.22	17.88	40.41	17.21
Cable Splicer	45.34	18.99	44.45	18.28



Laborers				
Group I- Unskilled	12.26	6.22	12.26	6.22
Group II- Semi-Skilled	12.56	6.22	12.56	6.22
Group III- Skilled	12.96	6.22	12.96	6.22
Group IV- Specialty	13.21	6.22	13.21	6.22
Operators				
Group I	19.15	6.54	18.79	6.34
Group II	20.11	6.54	19.72	6.34
Group III	20.21	6.54	19.82	6.34
Group IV	20.33	6.54	19.93	6.34
Group V	20.43	6.54	20.03	6.34
Group VI	20.62	6.54	20.21	6.34
Group VII	20.78	6.54	20.37	6.34
Group VIII	21.08	6.54	20.66	6.34
Group IX	28.80	6.54	28.16	6.34
Group X	32.15	6.54	31.41	6.34
Truck Drivers				
Group I-IX	16.67	8.27	16.45	7.87

NOTE: All contractors are required to pay SUBSISTENCE, ZONE AND INCENTIVE PAY according to the trade. Details are in a PDF attachment at WWW.DWS.STATE.NM.US. Search Labor Relations/Labor Information/Public Works/Prevailing Wage Rates.

For more information about the Subsistence, Zone, and Incentive Pay rates, or to file a wage claim, contact the Labor Relations Division at (505) 841-4400 or visit us online at www.dws.state.nm.us.