REQUEST FOR BID

RFB 2026-062

District 3 Operational Street Maintenance & Pavement Rehabilitation

Issue Date: November 4, 2026
All Questions Due: December 2, 2026, at 5:00 P.M. CT
Bid Closing Date & Time: December 15, 2026, 2:00 P.M. CT
Bid Opening Date & Time: December 15, 2026, 2:01 P.M. CT

For Information Contact:
Paul Campos, Purchasing Agent, 254-750-8062, or pcampos@wacotx.gov

Pre-Bid Meeting (Non-Mandatory):

Tuesday, November 17, 2026
at 10:00 a.m.
Via Zoom Video & Dial In

RFB Opening Location:
Purchasing Services Office, 1415 N. 4th Street, Waco, Texas
via Zoom Video Conferencing Only

Zoom & Dial-In Information:

Please see Page 3

Purchasing Services
Post Office Box 2570
Waco, Texas 76702-2570
Telephone 254 / 750-8060
Fax 254 / 750-8063
waco-texas.com

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City of Waco, Texas

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PRE BID/ PROPOSAL	
BID NUMBER:	RFB 2026-062
DATE:	11/17/26
TIME: CENTRAL	10:00 A.M. (CT)
QUICK LINK:	Invite Link https://wacotx.zoomgov.com/j/1656221534?pwd=vHb87reTyJuCT5C1h0gsSJyLQDyIgR.1 https://wacotx.zoomgov.com/j/1656221534?pwd=vHb87reTyJuCT5C1h0gsSJyLQDyI
MEETING ID:	165 622 1534
DIAL IN NUMBER:	+1 669 254 5252 US
PASS CODE:	933434
ADDITIONAL INFORMATION:	Via Zoom Video and Dial In Non-Mandatory

BID/ PROPOSAL OPENING	
BID NUMBER:	RFB 2026-062
DATE:	12/15/26
TIME: CENTRAL	2:00 P.M. (CT)
QUICK LINK:	Invite Link https://wacotx.zoomgov.com/j/1653070970?pwd=hwpe8F4k7ZxGnRvTIrR53OGogmILLr.1 https://wacotx.zoomgov.com/j/1653070970?pwd=hwpe8F4k7ZxGnRvTIrR53OGogmI
MEETING ID:	165 307 0970
DIAL IN NUMBER:	+1 669 254 5252 US
PASS CODE:	951284
ADDITIONAL INFORMATION:	

City of Waco, Texas

RFB 2026-062

Operational Street Maintenance & Pavement Rehabilitation District 3

REGISTER INTEREST

You have received a copy of the above described Request document. If you would like to register your interest in this project so that you will receive any future notices or addenda concerning the project, please fill in the information requested below and fax this page to 254-750-8063. You may also scan this page and email to: pcampos@wacotx.gov.

Company/Firm: _____

Name of Contact _____

Person(s): Email(s): _____

Telephone: _____ **Fax:** _____

Mailing Address: _____

_____

It is your responsibility to complete and return this form to the City. Failure to do so will result in your not receiving notices and addenda related to this project from the City of Waco. Notices and addenda are posted on the City's website and can be accessed at: waco-texas.com/bids.

City of Waco Purchasing Services
Post Office Box 2570
Waco, Texas 76702-2570
Telephone 254-750-8060
Fax 254-750-8063
www.waco-texas.com

I. Schedule for Solicitation

The proposed schedule of events is tentative and may be modified throughout the selection process at the discretion of the City of Waco.

• **Issuance of the RFB**		**November 4, 2026**
• **Pre-Bid Meeting 10:00 a.m CT**	*Via Zoom Video & Dial In*	**November 17, 2026**
• **Deadline for Questions 5:00 p.m. CT**		**December 2, 2026**
• **Open & Close Date 2:00 p.m. CT**	*Via Zoom Video & Dial In*	**December 15, 2026**

Tentatively, the final selection decision will be made and submitters will be notified of award by, **January, 2027.** This schedule is subject to change by the City.

II. Contact with City of Waco

The contact person for this solicitation process is: Paul Campos, Purchasing Agent who can be reached at:

Email: pcampos@wacotx.gov Telephone: (254) 750-8062 Fax: (254) 750-8063

Questions concerning the solicitation can be submitted through the City of Waco's Bonfire portal at https://waco-texas.bonfirehub.com/login (preferred) or by email to the contact person listed above.

Via Delivery Services/Personal Delivery :
City of Waco Purchasing Services
Attn: Paul Campos, Purchasing Agent
1415 North 4th Street
Waco, Texas 76707

NOTE: US Mail does NOT deliver to this street address.

Contact with someone other than the Purchasing Agent listed above, or his/her designated representative; at the City of Waco concerning this solicitation may be grounds for removal from consideration.

Interpretation, modification, corrections, or changes to the solicitation documents will be made by addenda issued by the City of Waco. Addenda will also be made available through the City of Waco's Bonfire portal at https://waco-texas.bonfirehub.com/login or the City of Waco Website at https://www.waco-texas.com/bids.asp. Interested professional service providers are encouraged to return the Register Interest form on the previous page.

The contact person for this solicitation process is: Paul Campos, Purchasing Agent who can be reached at:

Email: pcampos@wacotx.gov Telephone: (254) 750-8062 Fax: (254) 750-8063

Questions concerning the solicitation must be submitted to contact person **in writing** on or before date shown in the schedule above.

Via U.S. Mail: City of Waco Purchasing Services Attn: Paul Campos, Purchasing Agent P.O. Box 2570 Waco, Texas 76702-2570	**Via Delivery Services/Personal Delivery :** City of Waco Purchasing Services Attn: Paul Campos, Purchasing Agent 1415 North 4th Street Waco, Texas 76707

NOTE: US Mail does NOT deliver to street address

Contact with someone other than the Purchasing Agent listed above, or his/her designated representative, at the City of Waco concerning this solicitation may be grounds for removal from consideration.

Interpretation, modification, corrections, or changes to the solicitation documents will be made by addenda issued by the City of Waco. Addenda will also be made available through the City of Waco's eProcurement portal at waco-texas.bonfirehub.com/login or the City of Waco Website at waco-texas.com/bids. Interested professional service providers are encouraged to return the Register Interest form on the previous page.

III. DEFINITIONS

(1) "City" means and refers to the City of Waco, Texas.

(2) "Company" or "Firm" means and refers to any submitter, whether such submitter be a sole proprietor, corporation, company, partnership, company, or any other entity legally defined or recognized under the laws of the State of Texas.

(3) "Bid" or "Submission" refers to a response submitted to an RFB.

(4) "RFB" means and refers to a Request For Bid that will be awarded based on lowest responsible bid or best value to City of Waco.

(5) "Selected submission" means and refers to the submission sent to the City of Waco by the Selected Firm.

(6) "Selected Firm" means the firm who is selected by the City and to whom the City Council/ City Manager awards a contract for the services requested in this solicitation.

(7) "Solicitation" means an RFB issued by the City Waco seeking products or services described in the document.

(8) "Submitter" or "Vendor" or "Bidder" or "Contractor" means a firm that submits a response to a solicitation.

(9) "Contract documents" includes the RFB and all of the Appendices attached to the RFB.

(10) "Day" means a calendar day unless otherwise specifically defined.

(11) "Project" refers to construction work that the City seeks to complete and which is named on the cover sheet. The Selected Firm will furnish all labor, materials, equipment, and other incidentals necessary for the successful completion of this construction work.

IV. REQUESTED SERVICES

A. Basic Scope of Services

(1) The City of Waco District 3 Operational Street Maintenance & Pavement Rehabilitation project generally consists of concrete and street improvements, including but not limited to ADA ramps, sidewalk, curb and gutter, drive approaches, concrete fillets, concrete valley gutters, base failure repairs, asphalt pavement milling/overlaying, and all necessary components as shown on the project drawings and as specified herein.

(2) Engineering Estimate: $3.3M, Base Bid and Alternate 1 Bid.

(3) Liquidation fee - $2,500 beyond substantial completion and $1,000 beyond final completion.

(4) TxDOT Qualification is NOT required for this bid.

(5) **Prime Contractor is required to self-perform 30% of the contract work.**

(6) Detailed specifications are attached as Appendices.

(7) A digital version of this document can be obtained from the City of Waco's eProcurement portal at waco-texas.bonfirehub.com/login or the City of Waco Website at waco-texas.com/bids.

(8) EXCEL Bid Sheet available on request.

B. Terms, Conditions, and Requirements

In addition to the specifications for the Project, the attached Appendices include the City's Contract terms, conditions, and requirements.

C. Duration of Service

The City of Waco is seeking to have the work that is the subject of this RFB to be completed within **220 Calendar days - Substantial Completion / 250 Calendar Days - Final Completion.** from the date of the Notice to Proceed. In determining the number of days for completion of the work under this Contract, it is anticipated that work will not be performed on Saturdays, Sundays, or City holidays unless specifically approved by City. Since day is defined as a calendar day, Saturdays, Sundays, and City holidays shall be counted as days and included in calculating the Contract time. If a Contractor wants to perform work on Saturdays, Sundays, or City holidays, the Contractor shall seek approval by making a written request to City. Contractor shall be responsible for all City staff and third-party time, costs, expenses and overtime for work performed on Saturdays, Sundays, or City holidays, unless excused in writing by the City prior to the work.

D. Reservations by City

The City of Waco reserves the right to reject any and all submittals. This issuance of this solicitation does not obligate the City to contract for expressed or implied services. The City of Waco will not reimburse vendors for any costs incurred during the preparation or submittal of responses to this solicitation.

(1) Furthermore, the City expressly reserves the right to:

(a) Waive any defect, irregularity, or informality in any submittal or procedure;

(b) Extend the solicitation closing time and date;

(c) Reissue this solicitation in a different form or context;

(d) Procure any item by other allowable means;

(e) Waive minor deviations from specifications, conditions, terms, or provisions of the solicitation, if it is determined that waiver of the minor deviations improves or enhances the City's business interests under the solicitation; and/or

(f) Extend any contract when most advantageous to the City, as set forth in this solicitation.

(g) Retain all bids submitted and to use any ideas in a bid regardless of whether or not that bid is selected.

V. BIDS SUBMISSION AND AWARD PROCEDURES

A. Requirements

(1) Contractors should submit their bids through the City of Waco's eProcurement portal at waco-texas.bonfirehub.com/login. Paper/Physical submissions will still be accepted and should include **one (1) electronic copy (CD or Flash Drive) and (1) original and two (2) copies of their statements of qualifications on 8 ½ x 11 paper**. These must be received by the date set out above in the Schedule of Solicitation for a submitting firm to be considered:

(2) Pricing Forms and Submission/Bid Security

(a) Pricing Forms.

1. Bids are to be submitted with a response on each item and the total extended. More than one (1) bid may be submitted on items that meet the specifications and the other RFB requirements.

2. Pricing is to be submitted on units of quantity specified on the Pricing Form with extended totals. In the event of a discrepancy in any extension total, the unit prices shall govern and be binding for purposes of this RFB.

3. All prices included are to be submitted less Federal Excise and State of Texas Sales Taxes. A tax exemption certificate will be executed upon request. The City's federal tax identification number is 1-74-6002468-4.

(b) Security – Bid Bond.

1. Each submission must be accompanied by a **certified check** of the submitter, or a **bid bond (PDF copy through the eProcurement portal**) executed by the submitter as principal and having as surety thereon a surety company approved by the City

in the amount of 5% of the submission. The Surety's Power of Attorney must accompany the bid bond. The bid bond and surety's Power of Attorney must both carry the same date which is no earlier than three (3) days prior to the scheduled bid opening date. **An original copy of the bid bond and Surety's Power of Attorney will be required of the recommended/ awarded vendor within three (3) business days from the request by the City.**

2. Checks will be returned to all except the three lowest bidders within three days after the opening of bids. The remaining checks will be returned promptly after the City and the selected bidder have executed the contract.
3. If no award has been made within ninety (90) days after the date of the opening of bids, a bidder may demand that the security submitted be returned so long as said bidder has not been notified of the acceptance of his bid.
4. If the selected bidder refuses or fails to execute and deliver the contract and bonds (payment and/or performance) required within 10 days after receiving notice of the acceptance of his bid, the bid security shall forfeit to the City as liquidated damages for such failure or refusal.
5. A Bid Bond form can be found in the Appendices.

B. Completeness of Submission

(1) Vendors are responsible for examining and being familiar with all specifications, drawings, standard provisions, instructions, and terms and conditions of the solicitation and their responses.

(2) The vendor must attach all required forms with each submission copy. Forms must be signed by a representative of the vendor authorized to bind the vendor contractually. The vendor must include a statement identifying any exceptions to this RFB or declare that there are no exceptions taken to the RFB.

C. Bid Response Date and Location

Responses to this solicitation must be received by **2:00 p.m. (Central Time) on December 15, 2026.** The City prefers that vendors use the eProcurement portal at waco-texas.bonfirehub.com/login, paper submissions will still be received at the address listed below **Via Delivery Services or Personal Delivery** to:

Attn: Paul Campos, Purchasing Agent
1415 North 4th Street
Waco, Texas 76707

If using U.S. Mail, note that U.S. Mail is initially received at Waco City Hall and then delivered to the office of Purchasing Services by a City courier. That delivery may occur a day or more after being received at Waco City Hall. Allow additional time in advance of the proposal due date for U.S. Mail delivery. If the Purchasing Office has not received the proposal by the stated deadline, the proposal will be returned unopened.

All submissions shall be sent to the attention of the Purchasing Agent in a sealed envelope that is clearly marked on the outside as follows:

"RFB 2026-062, "District 3 OSM & Pavement Rehabilitation"

Bid Opening: 2:01 P.M. (Central Time) on December 15, 2026

Vendors accept all risk of late delivery bids regardless of instance or fault. A bid received after the submission deadline will not be considered and will be returned unopened to the submitter.
Vendors accept all risks of delivery.

The City will **NOT** accept a response submitted by facsimile transmission (fax) or by electronic mail (email).

All submissions and Modification to or accompanying documents will become property.

D. Withdrawal of Submission

Submissions cannot be altered or amended after the submission deadline passes. Submissions may be modified prior to the deadline by providing a written notice to the Purchasing contact person at the address previously stated. To modify a submission prior to the submission deadline:

(1) Submit a written notice of the modification WITHOUT revealing the bid price. The modification should provide the addition, subtraction, or other modifications so that the final prices or terms will not be revealed to the City until the sealed bid is opened.

(2) The written modification may be submitted by electronic transmission (fax or email or personal delivery to Purchasing Agent identified earlier in this document. The written modification must be received by the City prior to the closing time.

(3) If the modification is submitted through an electronic transmission (fax or email), the City must receive an original of the modification document signed by the bidder and submitted to a delivery company (UPS, FedEx, etc.) prior to the bid closing time. If the original of the modification was not submitted to a delivery company prior to the closing time or is not received within three (3) days after the closing time of the bid, consideration will not be given to the modifications provided in the electronic transmission.

A submission may also be withdrawn by providing the notice in person by a representative of the vendor who can provide proof of his authority to act for the vendor. The representative will be required to execute a receipt reflecting the submission is being withdrawn. If a submission is withdrawn before the submission deadline stated herein, the vendor may submit a new sealed bid provided the new bid is received prior to the closing date and time deadline stated on the cover page and in the Schedule for the Solicitation. This provision does not change the common law right of a submitter to withdraw a submission due to a material mistake in the submission.

E. Submission Validity Period

A submission responding to this RFB signifies the vendor's agreement that the submission, and the content thereof, are **valid for ninety (90)** days following the submission deadline unless otherwise agreed to in writing by all parties. The submission may become part of the contract that is negotiated between the City and the successful vendor.

F. Vendor's Cost to Develop Submission

Costs for developing and assembling submissions in response to this solicitation are entirely the responsibility and obligation of the vendor and shall not be reimbursed in any manner by the City.

G. References

The City reserves the right to request that a vendor provide references.

H. Method of Award and Evaluation of Factors

(1) For this solicitation, the City will award the contract to the **Lowest Responsible Bidder**.

(a) The contract will be awarded to the lowest responsible bidder based on the base bid plus any selected alternatives provided the amount does not exceed the funds then estimated by the City as available to finance the contract.

(b) If the contract is bid with alternatives, the City reserves the right to select any combination of alternatives and will then compare all bids using the selected alternatives. If the amount of the bids exceeds the funds available to finance the contract, the City may (i) reject all bids or (ii) may award the contract based on the base bid with such deductions as produces a net total which is available within the available funds.

(2) During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from bidders.

(3) Best Value:

(a) In determining best value for the City, the City may consider:

1. The purchase price.
2. The reputation of the bidder and of the bidder's goods or services.
3. The quality of the bidder's goods or services.
4. The extent to which the goods or services meet the municipality's needs.
5. The bidder's past relationship with the municipality.
6. The impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities.
7. The total long-term cost to the municipality to acquire the bidder's good or services; and
8. any relevant criteria specifically listed in the request for bids or proposals

(b) Compliance with all bid requirements, delivery and needs of the City are considerations in evaluating bids. The City of Waco reserves the right to contact any offer or, at any time, to clarify, verify or request information with regard to any bid.

(4) During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from bidders.

I. Contact Award and Execution

The final contract must be awarded and approved by the Waco City Council if the amount of the contract will exceed $100,000.00. If the contract is for less than that amount, depending on the amount, the contract may be executed by the City Manager, an Assistant City Manager, department head or director.

Appendix A

(1) Pricing Form
(2) Sample Bid Bond

NOTE: Depending on unit prices, requirements and approved budgeted funds, quantities may be reduced or increased during the contract period.

THE CONTRACTOR IS RESPONSIBLE FOR ALL MATH, CALCULATIONS, AND FORMULAS

SPECIFICATION	COW DETAIL	TxDOT ITEM	ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	QTY	SUB-TOTAL
BASE BID								
GENERAL PROVISIONS								
6.4			1	Mobilization	LS	$ -	1	$ -
Section 3.3.6A	T-1		2	Traffic Control Plan	LS	$ -	1	$ -
Section 3.3.6A	T-1		3	Traffic Control Implementation	LS	$ -	1	$ -
1.10/GP3.6.D	WP-1		4	Stormwater Pollution & Prevention Plan (1 Acre or Less)	LS	$ -	1	$ -
1.10/GP3.6.D	WP-1		5	Stormwater Pollution & Prevention Plan Implementation (1 Acre or Less)	LS	$ -	1	$ -
			6	Testing of Water Improvements	LS	$ -	1	$ -
			7	Allowance to be used only as authorized by City of Waco	LS	$ 50,000.00	1	$ 50,000.00
SECTION 1: SITE WORK								
			8	Relocation and Replacement of Irrigation	LF	$ -	531	$ -
			9	Removal of Existing Drive Approach (All Types)	SF	$ -	2,350	$ -
5.4	ST-23A, ST-23B		10	Standard Residential Drive Approach & Drive Slab	SF	$ -	2,064	$ -
5.4	ST-24A, ST-24B		11	Standard Commercial Drive Approach & Drive Slab	SF	$ -	803	$ -
			12	Removal of Curb and Gutter (All Types)	LF	$ -	4,597	$ -
	ST-20A		13	Standard Curb & Gutter (To Include all Items in Detail ST-20A)	LF	$ -	4,231	$ -
			14	Mountable Curb & Gutter	LF	$ -	201	$ -
			15	Removal of Concrete Sidewalk	SF	$ -	853	$ -
5.4	SW-3		16	Reinforced Concrete Sidewalk	SF	$ -	818	$ -
6.4	SW-4		17	Reinforced Concrete Sidewalk / Brick Veneer (821 Melrose)	SF	$ -	38	$ -
			18	Removal of Standard Concrete Fillet	LF	$ -	208	$ -
	ST-19		19	Standard Concrete Fillet	SF	$ -	1,087	$ -
	ST-19		20	Concrete Valley Gutter	LF	$ -	161	$ -
			21	Removal of Concrete Dumpster Pad	SF	$ -	79	$ -
5.4	SW-3		22	Reinforced Concrete Dumpster Pad	SF	$ -	79	$ -
SECTION 4: WATER, WASTEWATER AND STORM WATER UTILITY CONSTRUCTION								
	SD-2, SD-3, SD-4		23	Existing Curb Inlet Top and Throat to be Removed and Replaced (All Sizes)	EA	$ -	2	$ -
	SD-2, SD-3, SD-4		24	Existing Inlet Top to be Removed and Replaced (All Sizes)	EA	$ -	1	$ -
	W-9, W-14		25	1" Residential Water Service, Meter Box, Relocation of Ex Meter, Connection to Private Service and Surface Replacement (All Lengths)	EA	$ -	1	$ -
	W-9		26	Adjust Ex Water Meter Box to Grade	EA	$ -	31	$ -
	S-2		27	Adjust Ex Cleanout to Grade	EA	$ -	10	$ -

SPECIFICATION	COW DETAIL	TxDOT ITEM	ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	QTY	SUB-TOTAL
	ST-13, ST-14		28	Adjust Ex Valve Box to Grade	EA	$ -	2	$ -
	W-9, W-14		29	Remove and Replace Water Meter Box	EA	$ -	40	$ -
	W-9, W-17		30	Remove and Replace Traffic Rated Water Meter Box	EA	$ -	1	$ -
			31	Remove Existing Water Meter Box & Abandon Existing Water Service	EA	$ -	1	$ -
			32	Existing Fire Hydrant and Gate Valve to be Removed (All lengths)	EA	$ -	8	$ -
4.7	W-2		33	Fire Hydrant, including cut-in Tee, 6" Gate Valve, Fire Line, Gradelock and Surface Replacement (All lengths)	EA	$ -	8	$ -
	ST-11, ST-12		34	Adjust Sanitary Sewer Manhole to Grade	EA	$ -	2	$ -
	S-2		35	Remove and Replace Cleanout Cover	EA	$ -	1	$ -
SECTION 6: MISCELLANEOUS CONSTRUCTION								
			36	Removal and Reinstallation of Existing Mailbox (All Types), Pole Mounted	EA	$ -	12	$ -
			37	Miscellaneous Signage to be Removed and Reinstalled	EA	$ -	13	$ -
	T-6		38	Stop Sign and Blades to be Removed and Reinstalled	EA	$ -	5	$ -
			39	Remove and Replace Shrubs (All varieties)	LS	$ -	1	$ -
			40	Adjust Ex Light to Grade	EA	$ -	1	$ -
SECTION 2: SUBGRADE AND BASE COURSES								
	ST-43		41	Base Failure Repair (TY B HMAC)	SY	$ -	4,114	$ -
SECTION 3: PAVEMENT AND SURFACE COURSES								
		355	42	Milling & Edge Milling (0" to 2-1/2")	SY	$ -	33,695	$ -
		341M	43	Level Up Ty-D PG 64-22	TN	$ -	200	$ -
		341M	44	2" D-GR HMAC TY-D SAC B PG 64-22 (Overlay)	SY	$ -	33,695	$ -
		310	45	Prime Coat (AE-P or MC-300)(0.15 GAL/SY Residual Min)	GAL	$ -	1,939	$ -
		300	46	Bonding Course (TRAIL Hot Asphalt) (0.19 GAL/SY)	GAL	$ -	4,097	$ -
		300	47	Bonding Course (TRAIL Emulsified Asphalt) (Wand Applied) (0.10 GAL/SY)	GAL	$ -	67	$ -
SECTION 5: CONCRETE								
	ST-11, ST-12		48	Manhole Lid Height Adjustment A/B	EA	$ -	8	$ -
	ST-13, ST-14		49	Valve Box Height Adjustment A/B	EA	$ -	27	$ -
	ST-11, ST-12, S-7		50	Replace Old Style Manhole Cover and install concrete diamond	EA	$ -	20	$ -
	ST13 ,ST-14, W-8		51	Replace Old Style Valve Box Cover and Can and install concrete diamond	EA	$ -	14	$ -
SECTION 8: TRAFFIC								
		666	52	Placement of Temporary Markings	LS	$ -	1	$ -
		666	53	REFL PAV MRK TY I (Y) 6" (SLD) (100 MIL)	LF	$ -	8,320	$ -
		666	54	REFL PAV MRK TY I (W) 6" (SLD) (100 MIL)	LF	$ -	304	$ -
		666	55	REFL PAV MRK TY I (W) 24" (SLD) (100 MIL)	LF	$ -	279	$ -
		666	56	REFL PAV MRK TY I (ARROW) (100 MIL)	EA	$ -	3	$ -

SPECIFICATION	COW DETAIL	TxDOT ITEM	ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	QTY	SUB-TOTAL
		666	57	REFL PAV MRK TY I (DBL-ARROW) (100 MIL)	EA	$ -	1	$ -
		666	58	REFL PAV MRK TY I(WORD) (100 MIL)	EA	$ -	2	$ -
		672	59	RAISED PAV MRKR (RPM) TY I-C	EA	$ -	18	$ -
		672	60	RAISED PAV MRKR (RPM) TY II-A-A	EA	$ -	134	$ -
		672	61	RAISED PAV MRKR (RPM) TY II-B-B	EA	$ -	15	$ -
						SUBTOTAL - BASE BID :		**$ -**
				BID ALTERNATE #1				
			A.01	Removal of Curb and Gutter (All Types)	LF	$ -	36	$ -
	ST-20A		A.02	Standard Curb & Gutter (To Include all Items in Detail ST-20A)	LF	$ -	22	$ -
			A.03	Removal of Concrete Sidewalk	SF	$ -	128	$ -
5.4	SW-3		A.04	Reinforced Concrete Sidewalk	SF	$ -	69	$ -
	SW-5, SW-6, SW-8		A.05	Type 7 Ramp	EA	$ -	2	$ -
						SUBTOTAL - BID ALTERNATE #1 :		**$ -**
						TOTAL BASE BID + BID ALTERNATE #1 CONSTRUCTION COST		**$ -**
				ADDITIONAL BID ITEMS - UNIT PRICING				
	G-10, S-1		62	Replacement of Existing Sanitary Sewer (4"-8") with 8" SDR-26 PVC, depth ≤ 10'	LF	**$ -**		
	G-10, S-1		63	Replacement of Existing Sanitary Sewer (10"-15") with SDR-26 PVC, depth ≤ 10'	LF	**$ -**		
	G-10, S-1		64	Replacement of Existing Sanitary Sewer (4"-8") with 8" SDR-26 PVC, depth > 10'	LF	**$ -**		
	G-10, S-1		65	Replacement of Existing Sanitary Sewer (10"-15") with SDR-26 PVC, depth > 10'	LF	**$ -**		
	G-10, SD-1		66	Replacement of Existing Storm Sewer (All Sizes, All Depths) with Reinforced Concrete Pipe	LF	**$ -**		

The General Contractor must self perform a minimum of 30% of the work in the awarded contract.

SUBCONTRACTOR	**TYPE OF WORK**

FIRM NAME: _____

BY: _____

TITLE: _____

ADDRESS: _____

Contractor acknowledges and agrees that the official TOTAL AMOUNT OF BID is determined by multiplying the unit bid prices by the respective estimated quantities shown in this bid proposal and then totaling all of the extended amounts. Extended amounts SHOULD NOT be rounded up or down. All dollar amounts should be either written legibly or typed. Any mistakes should be rewritten and initialed by the Contractor.

THE STATE OF TEXAS §

COUNTY OF_____§

KNOW ALL MEN BY THESE PRESENTS, THAT _____

_____, (hereinafter called the Principal), as Principal, and

_____,

(hereinafter called the Surety), as Surety, are bound unto the **City of Waco,** Texas, a home rule municipal corporation of McLennan County, Texas (hereinafter called Obligee) in the amount_

_____DOLLARS ($___), which is five percent (5%) of the bid, for the payment whereof said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid to enter into a certain written Contract with Obligee for *{enter description of contract below}*

_____,

which is scheduled to be opened on _____, 20_____.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully, enter into such written Contract, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that if said Principal should withdraw its Bid any time after such Bid is opened and before official rejection of such Bid or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish, if required, satisfactory Performance Bond and Payment Bond, the Obligee, in either of such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

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

Bid Bond – Page 2

PROVIDED, further that if any legal action be filed upon this Bond, venue shall lie in McLennan County, Texas.

IN WITNESS WHEREOF, the said Principal and Surety do sign and seal this instrument this _____ day of _____, 20_____.

ATTEST/WITNESS:

_____
Secretary (if corporation) / Witness

_____
Name of Principal - Contractor

(if corporation Corporate Seal)

BY:_____
signature

Title: _____

Address: _____

_____

ATTEST:

_____
Surety Secretary

_____
Name of Surety

BY: _____
Attorney-in-Fact signature

(Surety Seal)

_____
Witness to Surety

Address: _____
For Attorney in Fact

Address: _____

_____

_____

NOTE: Submit an original bid bond and a certified copy of the power of attorney along with full contact information for the Surety. Both the bid bond and the power of attorney should be dated for the same date which is no earlier than three (3) days prior to the scheduled bid opening. [Count back from the day of the bid opening and do not count the bid opening day. Example: bid opening on Thursday, count back Wednesday, Tuesday, and Monday.] If the opening is delayed or rescheduled, Principal and/or Surety may be asked to provide proof that the bid bond executed is still valid.

COMPLETED FORM MUST BE RETURNED WITH BID/PROPOSAL

APPENDIX B
Contract Requirements

Please be advised:
The City of Waco mandates that the successful bidder submit the following (*) documents before the official contract is awarded.

(1) City of Waco General Terms and Conditions
(2) General Condition for Construction Work
(3) Registered with the Texas Secretary of State
(4) *W9 Tax Form
(5) Sales Tax Information
(6) Insurance & Indemnification Requirements
(7) *Worker's Compensation
(8) Wage Rates
(9) *HB 89 (Energy Form)
(10) *HB 89 (Firearms Form
(11) *HB 89 (Israel Form)
(12) *Foreign Terrorist Organization Verification Form
(13) *(After Council Award) House Bill 1295 Information Sheet
(14) Protest Procedure
(15) Sample Contract, General Conditions, Supplementary Conditions (EJCDC)
(16) Sample Payment and Performance Bond

APPENDIX B. (1)

General Waco Terms and Conditions

(a) **Applicable Law and Venue.** This solicitation and any resulting contract will be governed and construed according to the laws of the State of Texas. The terms and conditions of the contract awarded pursuant to the solicitation are fully performable in McLennan County, Texas and venue for any dispute regarding contract shall be in McLennan County, Texas.

(b) **Arbitration / Mediation.** The City of Waco will not agree to binding or mandatory arbitration or mediation.

(c) **Conflict of Interest.** Vendor agrees to comply with the conflict of interest provisions of the Waco City Charter, Waco Code of Ordinances, and/or state law. Vendor agrees to maintain current, updated disclosure of information on file with the Purchasing Services Division throughout the term of the contract.

(d) **Gratuities.** The City may, by written notice to the Vendor, cancel this contract without liability to the City, if it is determined by the City that gratuities have been offered to any officer or employee of the City with a view toward securing a contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations in respect to the performance of such a contract. In the event this contract is canceled by City as set forth in this paragraph, the City shall be entitled to recover from Vendor all additional costs incurred by City as a result of the cancellation.

(e) **Unfunded Liability.** City's obligation is payable only and solely from funds available for the purpose of this purchase. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to Vendor by City. The City will not incur a debt or obligation to pay selected bidder any amounts the City does not have the current funds available to pay, unless the contract includes a provision for the City to appropriate funding for the debt or obligation.

(f) **Advance Payments.** The City will not make advance payments to a selected firm or any third party pursuant to this solicitation or resulting contract.

(g) **Gift of Public Property.** The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected firm.

(h) **Procurement Laws.** The City will not agree to any terms or conditions that cause the City to violate any federal, Texas, or local procurement laws, including its own charter.

(i) **Limitation of Liability.** The City of Waco will not agree to an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

(j) **Waiver.** No claim or right arising out of a breach of the contract resulting from this solicitation can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

(k) **Right To Assurance.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, that party may request that the other party give written assurance of his intent to perform. In the event that a request is made and no assurance is given within five (5) days, the requesting party may treat this failure as an anticipatory repudiation of the contract.

(l) **Attorney's fees; Legal Costs.** The City will not agree to pay the selected firm's attorney's fees or other legal costs under any circumstances.

(m) **Advertising.** Vendor shall not advertise or publish, without City's prior consent, the fact that City has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

(n) **Arrears In Taxes.** Article VII. Taxation, Section 8, of the City of Waco Home Rule Charter states: The City shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City of Waco for taxes, in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to offset the said taxes against the same.

(o) **Tax Certification; Offset of Other Debts Against City.** Selected bidder hereby certifies that it is not delinquent in the payment of taxes owed to the City and will pay any taxes owed to the City so that such taxes will not become delinquent. If this certification is subsequently determined to be false, such false certification shall constitute grounds for termination of the contract awarded under this SOLICITATION, at the option of City. Furthermore, Selected bidder agrees the City is entitled to counterclaim and offset against any debt, claim, demand, or account owed by the City to the selected bidder, pursuant to the awarded contract, for any debt, claim, demand, or account owed to the City, including other than the taxes mentioned above. The City may withhold from payment under the awarded contract an amount equal to the total amount of debts, claims, accounts, or demands including taxes owed to the City by the selected bidder. The City may apply the amount withheld to the debts and taxes owed to the City by the selected bidder until said debts are paid in full. No assignment or transfer of such debt, claim, demand or account after the said taxes or debts are due shall affect the right of the City to offset the taxes and the debt against the same.

(p) **Independent Contractor.** The selected bidder will be an independent contractor under the contract. Professional services provided by the selected bidder shall be by the employees or authorized subcontractors of the selected bidder and subject to supervision by the selected bidder, and not as officers, employees or agents of the City. Selected bidder will be required and agrees to comply with all state and federal employment laws as well as all other federal, state and local laws, rules and regulations affecting the performance of all obligations taken herein.

(q) **No Joint Enterprise/Joint Venture.** It is not the intent of this solicitation or the contract to be awarded to create a joint enterprise or joint venture.

(r) **Subcontracting Bid.** If subcontracting with another company or individual is proposed, that fact, along with providing the same information for the subcontractor that is required to be provided by the bidder under this solicitation, must be provided and clearly identified in the bid. Following the award of the contract, no additional subcontracting will be permitted without the express prior written consent of the City.

(s) **Assignment-Delegation.** No right or interest in the contract shall be assigned or delegation of any obligation made by Vendor without the written permission of the City. Any attempted assignment or delegation by Vendor shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

(t) **Modifications:** This contract can be modified or rescinded only by a written instrument signed by both of the parties or their duly authorized agents.

(u) **Interpretation-Parol Evidence:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete agreement for dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.

(v) **Equal Employment Opportunity:** Vendor agrees that during the performance of its contract it will:

1. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
2. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Vendor shall be advised of any complaints filed with the City alleging that Vendor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Vendor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.

(w) **Israel:** Vendor acknowledges that effective September 1, 2017, the City is required to comply with Section 2270.001 of the Texas Government Code, enacted by House Bill 89 (85th (R) Texas Legislature), which requires that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott Israel and will not boycott Israel during the term of the contract. By executing this Agreement, Vendor verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

APPENDIX B. (2)
General Conditions for Construction Work

The "City of Waco Standard Specifications for Construction" dated January 2013, as revised by Special Provisions listed on the City of Waco website at http://www.waco-texas.com/engineering-specifications.asp ("City of Waco Standard Specifications"), is incorporated herein by reference for all intents and purposes. The General Provisions of the City of Waco Standard Specifications include provisions related to the administration of the contract. If a provision of the City of Waco Standard Specifications conflicts with a provision in this solicitation, the provision in this solicitation controls. If the applicable provision is still unclear, the City Manager for the City of Waco, or his designee, will determine which provisions, specification or standard controls and his determination shall be final.

The City of Waco Standard Specifications may be obtained by accessing the City of Waco website at http://www.waco-texas.com/engineering-specifications.asp.

(a) **Permits and Fees:** All permitting fees from the City will be waived on construction projects. The contractor will still need to apply for all applicable permits. However, there will be no cost associated with issuance of City permits.

(b) **Time of Completion and Liquidated Damages:** Completing the work described in this solicitation in a timely manner is very important to the City of Waco. Submitter must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the City and to fully complete the project within the time stated in the contract documents. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Submitter to perform the service, should Submitter fail to complete the project within the calendar days specified in the contract, Submitter agrees to pay to City, or have withheld from monies due it, the amount stated in the contract documents as liquidated damages for each **calendar day** of delay or nonperformance. Any sums due and payable hereunder by the Submitter shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of a contract for this Project shall constitute agreement by the City and Submitter that said amount is the minimum value of the costs and actual damage caused by the failure of the Submitter to complete the Project within the allotted time. A sum due as liquidated damages may be deducted from payments due the Contractor if such delay occurs. Adjustments to the contract times can only be made as provided in the contract documents and any conditions or specifications referenced therein.

(c) **Conditions of Work:** While the City is issuing a solicitation including specifications, each Submitter is still responsible for examining all of the issued documents, attending any pre-bid conference, making a site visit, and taking whatever steps are necessary to inform itself of the conditions relating to the project and the employment of labor thereon. Each Submitter must inform itself of the conditions relating to the project and the employment of labor thereon. Failure to do so will not relieve the Submitter awarded this contract of its obligation to furnish all material and labor necessary to carry out the provisions of the contract. Insofar as possible, the Selected Firm, in carrying out the Project, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

(d) **Employment Conditions/Requirements:** Submitters shall pay particular attention to the required employment conditions that must be observed and the minimum wage rates to be paid. If federal or state funds are involved in paying for the work, there may be additional requirements that must be followed to comply with the terms of the federal or state funding.

(e) **Price Discrepancy. In the case of a discrepancy between the unit price and the extended total for a bid item, the unit price will prevail. The unit prices of bids that have been opened may not be changed for the purpose of correcting an error in the bid price.**

(f) **Security for Faithful Performance [Payment and Performance Bonds]:** Simultaneously with his delivery of the executed contract, the Selected Firm shall furnish the required surety bonds as security for faithful performance of this contract (Performance Bond) and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract (Payment Bond), as specified in the documents included herein. For public works contracts, state law requires a Performance Bond if the contract is for an amount in excess of $100,000.00 and a Payment Bond if the contract is for an amount in excess of $50,000.00. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the City. The surety who signs contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

(g) **Force Majeure:** In the event performance by the Selected Firm of its obligations under this Agreement shall be interrupted or delayed by or as a consequence of a fire, flood, severe weather, or other act of God, war, insurrection, civil disturbance, or act of state, the Selected Firm shall be excused from such performance for the period of time such occurrence shall have lasted or such period as is reasonably necessary to rebuild or take other action necessary to resume performance. The period of time reasonably necessary to rebuild or take other action necessary to resume performance shall be as determined by the agreement of the parties, which agreement shall be negotiated and arrived at in good faith. The Selected Firm shall notify the Contact Person or Contract Administrator of any matter covered above, the occurrence of which interferes or threatens to interfere with the performance of any of its obligations under the bid. Upon such notice, the Selected Firm and the City shall consult and cooperate as to measures which may be taken to overcome the interference or as to alternative measures which may be undertaken by the parties with a view to the continued performance of the bid agreement.

(h) **Right to Assurance:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the questioning party may demand the other party give written assurance of its intent to perform. In the event that a demand is made, and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

(i) **Invoice Submittal Procedures:** If invoices are submitted or otherwise used pursuant to the bid awarded under this solicitation, the Selected Firm shall present invoices to the City in the following form and content:

1. Each invoice must reference the City of Waco contract, agreement or Purchase Order number;
2. Only one contract, agreement, or project shall be billed on a particular invoice;
3. Only one invoice per every thirty (30) days per contract, agreement, or project may be submitted; and
4. Each invoice must have a billing number, which reflects in sequence the number of invoices that have been submitted on the contract, agreement, or project.

The invoice requirements stated herein shall not be read to disallow or exclude other information that may be otherwise required or requested by the City. Such information required herein must be submitted only on an invoice and not in any other non-invoice form or document.

(j) **Termination of Contract:** Except as provided elsewhere in the contract documents:

1. The City may terminate the contract for cause for Selected Firm's failure to perform work, non-adherence to established federal, state and/or local laws, or a violation of any of the contract provisions. Upon written termination, the City may exclude the Selected Firm from the Project site and pursue any remedies available to the City.
2. Upon ten (10) days written notice, City may terminate the contract for convenience, for any reason. In such case, the Selected Firm shall be paid, without duplication, for completed and acceptable work and expenses, including reasonable overhead and profit, and for other reasonable expenses directly attributable to the termination. In no case shall the Selected Firm be paid for anticipated profits or other consequential damages. Upon receipt of written notice, the Selected Firm shall have a duty to mitigate its termination costs and shall not incur additional costs unrelated to the costs directly related to either securing completed work or winding down the Project.

(k) **Israel:** Vendor acknowledges that effective September 1, 2017, the City is required to comply with Section 2270.001 of the Texas Government Code, enacted by House Bill 89 (85th (R) Texas Legislature), which requires that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott Israel and will not boycott Israel during the term of the contract. By executing this Agreement, Vendor verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

Registration with the Texas Secretary of State

The Legal Department of the City of Waco requires that the successful bidder be registered with the Texas Secretary of State to conduct business with the City of Waco for projects or services exceeding $100,000.00

The registered information should align with the Business Identification form located in Appendix C and all business entity documents included in your submission.

To register, please visit the Texas Secretary of State website at:
https://www.sos.state.tx.us/corp/forms_boc.shtml

Call, or email for assistance:

- Phone: (512) 463-5555
- Corpinfo@sos.texas.gov

Docusign Envelope ID: C9A5C410-714E-412E-BE3C-A61AD6D0C05C

Form **W-9**
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See *Specific Instructions* on page 3.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)

CITY OF WACO, TEXAS

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____

Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.

☑ Other (see instructions) MUNICIPALITY

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____

(Applies to accounts maintained outside the United States.)

3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions ☐

5 Address (number, street, and apt. or suite no.). See instructions.

300 AUSTIN AVENUE

Requester's name and address (optional)

6 City, state, and ZIP code

WACO, TX 76701

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

7	4	–	6	0	0	2	4	6	8

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** Signed by: Collin Boothe 3D0B4375413246C... | **Date** January 7, 2026

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

TEXAS SALES TAX EXEMPTION INFORMATION

Under section 151.309 of the Texas Tax Code, the City of Waco is exempt the payment of sales tax. In addition, when the City contracts with a third party to make certain improvements to real property, purchases of materials/consumable items that are physically incorporated into that real property are also exempt from sales tax. In other words, materials and supplies that are entirely consumed or used up on a construction job for the City of Waco can be purchased without paying state and local sales tax. Items qualifying for this exemption must be used up entirely on a job for the City of Waco.

To claim this exemption, a contractor purchasing materials and supplies (as the buyer of the materials and supplies) will have to complete a Texas Sales and Use Tax Exemption Certification form to submit to the seller at the time of the purchase. The exemption form is available on the Texas Comptroller website at:

http://www.window.state.tx.us/taxinfo/taxforms/01-forms.html
http://www.window.state.tx.us/taxinfo/taxforms/01-339.pdf

(The City of Waco will provide an executed exemption certification to the contractor awarded a construction contract to assist in making claim for the sales tax exemption for materials to be used under that contract.)

In completing the exemption form, a contractor will:

(1) list itself as the purchaser, not the City of Waco;
(2) fill in the name and required information about the seller;
(3) describe the item being purchased or attached order or invoice – the only items included must be items that will be entirely consumed or used in the project for the City of Waco;
(4) state reason for claiming the exemption (suggested wording – "Taxable item purchased for use under contract to improve realty for exempt organization, namely the City of Waco, Texas, for Project or Job No. ___" or "Materials/supplies will be used entirely in an exempt contract for the City of Waco, Texas, for Project or Job No. ___").

The state statutes and rules related to sales tax can be accessed from the Texas Comptroller website:
http://www.window.state.tx.us/taxinfo/sales/

State statutes regarding sales tax can be found in Texas Tax Code Chapter 151 at:
http://www.capitol.state.tx.us/statutes/docs/TX/content/htm/tx.002.00.000151.00.htm

Rules related to sales tax in the Texas Administrative Code can be found at:
http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=34&pt=1&ch=3&sch=O&rl=Y
34 TAC Section 3.291 in Subchapter O deals specifically with Contractors.

The above information is being provided to assist contractors and is therefore general in nature. It is not a substitute for advice from the contractor's attorney or accountant.

PLEASE SIGN AND RETURN WITH BID

Texas Sales and Use Tax Resale Certificate

Name of purchaser, firm or agency as shown on permit	Phone *(Area code and number)*
Address *(Street & number, P.O. Box or Route number)*	
City, State, ZIP code	
Texas Sales and Use Tax Permit Number *(must contain 11 digits)*	
Out-of-state retailer's registration number or Federal Taxpayers Registry (RFC) number for retailers based in Mexico *(Retailers based in Mexico must also provide a copy of their Mexico registration form to the seller.)*	

I, the purchaser named above, claim the right to make a non-taxable purchase (for resale of the taxable items described below or on the attached order or invoice) from:

Seller: _____

Street address: _____

City, _____ State, _____ ZIP code: _____

Description of items to be purchased on the attached order or invoice:

Description of the type of business activity generally engaged in or type of items normally sold by the purchaser:

The taxable items described above, or on the attached order or invoice, will be resold, rented or leased by me within the geographical limits of the United States of America, its territories and possessions or within the geographical limits of the United Mexican States, in their present form or attached to other taxable items to be sold.

I understand that if I make any use of the items other than retention, demonstration or display while holding them for sale, lease or rental, I must pay sales tax on the items at the time of use based upon either the purchase price or the fair market rental value for the period of time used.

I understand that it is a criminal offense to give a resale certificate to the seller for taxable items that I know, at the time of purchase, are purchased for use rather than for the purpose of resale, lease or rental, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

Purchaser	Title	Date

This certificate should be furnished to the supplier.
Do <u>not</u> send the completed certificate to the Comptroller of Public Accounts.

01-339 (Back)
(Rev.4-13/8)

Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

Name of purchaser, firm or agency	
Address *(Street & number, P.O. Box or Route number)*	Phone *(Area code and number)*
City, State, ZIP code	

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: _____

Street address: _____ City, _____ State, _____ ZIP code: _____

Description of items to be purchased or on the attached order or invoice:

Purchaser claims this exemption for the following reason:

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

sign here ▶ Purchaser	Title	Date

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.

Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier.

Do <u>not</u> send the completed certificate to the Comptroller of Public Accounts.

City of Waco Insurance & Indemnification Requirements
Horizontal Construction with $1M Umbrella

Insurance Requirements:

A contractor's financial integrity is of interest to the City. Therefore, subject to a contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, a contractor shall obtain and maintain in full force and effect for the duration of the contract, and any extension hereof, at contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized to do business in the State of Texas that are rated A- or better by A.M. Best Company and/or otherwise acceptable to the City in the following types and amounts:

Type	Amount
Workers' Compensation	Statutory
Employer's Liability	$1,000,000/$1,000,000/$1,000,000
Commercial General Liability Including: • Premises/Operations • Independent Contractors • Products Liability/Completed Operations • Personal & Advertising Injury • Broad form property damage, to include fire legal liability	$1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles	$1,000,000 per occurrence or its equivalent on a combined single limit (CSL basis).
Umbrella Liability (follow forms) • General Liability • Automobile Liability	$1,000,000 Each Occurrence / Aggregate

Term of Policy: With regard to any approved claims-made policy form, a contractor shall maintain and keep in force and effect said coverage during the term of this contract and for a period of seven (7) years following the expiration or completion of the contract with the City, either through an existing carrier or a carrier of comparable financial statute and reputation.

Modification of Insurance Requirement: The City reserves the right to review these insurance requirements during the effective period of the contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager or designee, based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will the City allow a modification which results in the City incurring increased risk.

Proof of Insurance Required and When to Submit:

Examination & Approval. All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.

When to Submit. Prior to the execution of the contract by the City of Waco and before commencement of any work under this contract, a contractor shall furnish original proof of insurance to the City's Risk Manager which is clearly labeled with the contract name and City department. The proof will include completed/current Certificate(s) of Insurance, endorsements, exclusions, and/or relevant extracts from the insurance policy, or copies of policies. Thereafter, new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy. No officer or employee other than the City's Risk Manager or designee shall have authority to waive this requirement.

Additional Insured. Except for Workers' Compensation, Employers' Liability, and Professional Liability Insurance, the City, its elected officials, officers, servants, agents, volunteers and employees shall be named as additional insureds. No officer or employee, other than the City Risk Manager or designee, shall have authority to waive this requirement.

Other-Insurance Endorsement -- All insurance policies are to contain or be endorsed to state that an "Other Insurance" clause shall not apply to the City where the City is an additional insured shown on the policy.

Agent Information. The certificate(s) or other proof of insurance must be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must be signed and include the agent information including the agent name, title and phone number. The proof of insurance shall be sent directly from the insurance agent to the City's Risk Management Office by U.S. Postal Service to City of Waco, ATTN: Risk Manager, P.O. Box 2570, Waco, Texas 76702-2570 or by delivery service to 1415 North 4th Street, Waco, Texas 76707. To send by email, please contact the Risk Management Office at 254-750-5730 to obtain the email address.

Precondition to Performance & Basis for Termination. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy have been delivered to and approved by the City's Risk Manager. The contractor understands that it is the contractor's sole responsibility to provide this necessary information to the City and that failure to timely comply with these insurance requirements shall be a cause for termination of a contract. If the City determines that it will deny payment, not perform, or terminate the contract because of the failure to provide certain information or documents, the City shall give the contractor notice of that determination and allow contractor fifteen (15) days to correct the deficiency.

Waiver of Subrogation. All liability policies will provide a waiver of subrogation in favor of the City.

Notice of Cancellation, Non-renewal, Material Change. The Contractor shall provide written notification to the City of the cancellation, non-renewal, or material change of any insurance

required herein. The Contractor shall provide such written notice within five (5) business days of the date the Contractor is first aware of the cancellation, non-renewal, or material change, or is first aware that the cancellation, non-renewal, or material change is threatened or otherwise may occur, whichever comes first. Contractor shall provide the City with a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy either before the cancellation, non-renewal, or material change is effective, if it knew in advance of such, or within ten (10) business days of first learning of the cancellation, non-renewal, or change if it did not learn of that such action in advance.

INDEMNIFICATION.

A CONTRACTOR EXECUTING A CONTRACT WITH THE CITY AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED PURSUANT TO THE CONTRACT AND AGREES TO INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY, OR IN CONNECTION WITH, THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY.

Employee Litigation: In any and all claims against any party indemnified hereunder by any employee (or the survivor or personal representative of such employee) of the 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 herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for contractor or any such subcontractor, supplier, or other individual or entity under workers' compensation or other employee benefit acts.

CITY OF WACO

City of Waco Workers' Compensation Coverage Verification Form

The City of Waco, a State of Texas Governmental Entity and Municipality, is required to comply with the Texas Labor Code. Specifically, **Texas Labor Code – Section 406.096** directs Contractors who enter into a building or construction Contract with a Municipality to certify in writing that (1) they provide workers' compensation insurance coverage for each employee of the contractor employed on public projects, and (2) they receive a certificate from each subcontractor showing that every employee of the subcontractor is covered by workers' compensation insurance.

For your convenience, Texas Labor Code – Section 406.096 is attached.

Please review Section 406.096 prior to completing the City of Waco Workers' Compensation Coverage Verification Form.

If you have questions concerning this form, contact City of Waco Risk Management office at (254) 750-5730.

LABOR CODE
TITLE 5. WORKERS' COMPENSATION
SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT
CHAPTER 406. WORKERS' COMPENSATION INSURANCE COVERAGE

EXTRACT:

Sec. 406.096. REQUIRED COVERAGE FOR CERTAIN BUILDING OR CONSTRUCTION CONTRACTORS. (a) A governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project.

(b) Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity.

(c) A contractor who has a contract that requires workers' compensation insurance coverage may provide the coverage through a group plan or other method satisfactory to the governing body of the governmental entity.

(d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

(e) In this section:

(1) "Building or construction" includes:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

(2) "Governmental entity" means this state or a political subdivision of this state. The term includes a municipality.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

CITY OF WACO

Office Use Only Date Received:

City of Waco Workers' Compensation Coverage Verification Form. For Building or Construction Contractors

This form is being filed in accordance with Texas Labor Code – Section 406.96. Required Coverage For Certain Building Or Construction Contractors.

1. Name of Company doing business with the City of Waco.

_____.

2. Company Primary Point of Contact for Insurance issues.

Name: _____ Phone: _____.

Address: _____.

Email: _____
(Optional)

3. Name of Insurance Company providing Workers' Compensation Coverage for Company Employees.

Name	Address	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Is this an update to previously provided information on workers' compensation

☐ ce?_____ ☐ _____ NO.

Note: Please inform the City of Waco of changes in Insurance Companies.

5. Has the Company hired one or more Subcontractors for this project?

☐ YES ☐ NO

6. Has each Subcontractor provided the Company with a certificate showing workers' compensation insurance coverage for each of the Subcontractor's employees?

☐ YES ☐ NO

7. Name of each Subcontractor and Name of its Insurance Carrier providing Workers' Compensation Coverage for Subcontractor's Employees:

Subcontractor	Insurance Carrier
_____	_____
_____	_____
_____	_____
_____	_
_____	_____

Please provide a copy of each Subcontractor's proof of Workers' Compensation Coverage.

8. **Printed Name and Title of person completing this form, and have Witness sign**.

Print Name: _____ Title: _____

Signature: _____ Date Signed: _____

WITNESS:

Signature: _____ Date Signed: _____

Print Name:

_____ Print

Title: _____

PLEASE SIGN AND RETURN WITH BID

PREVAILING WAGE RATES INFORMATION

Texas Government Code Chapter 2258 requires a worker employed by a contractor or subcontractor in the execution of a contract for the public work by or on behalf of political subdivision of the state to be paid a prevailing wage rate.

Definition of "public work." A public work to which this provision applies includes but is not limited to construction of a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction. It does not apply to work done directly by a public utility company under an order of a public authority. Whether this Project is a public work shall be determined by the City, and such determination shall be provided in writing to the Contractor before the opening of bids.

Worker wage rate. Contractor agrees, covenants, and guarantees that it and its subcontractor(s) constructing this Project, if a public work, shall pay their workers, other than maintenance workers, employed on this Project:

1. not less than the general prevailing rate of per diem wages for work of a similar character performed within the geographical limits of the City; and
2. not less than the general prevailing rate of per diem wages for legal holiday and overtime work.

"Worker employed on a public work" defined. A worker is employed on a public work for the purposes of this provision if the worker, including a laborer or mechanic, is employed by a contractor or subcontractor in the execution of a contract for a public work with the City, or any officer of the City, or the City Council of the City of Waco.

Determination of prevailing wage rate. The City Council of the City of Waco shall determine the general prevailing rate of per diem wages to be paid for each craft or type of worker needed to construct the Project by:

1. conducting a survey of the wages received by classes of workers employed on public works of a character similar to the contract work in the geographical limits of the City in which this public work is to be performed; or
2. using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.) if the survey used to determine that rate was conducted within a three-year period preceding the date the City Council of the City of Waco issues invitations for bids for this public work.

Sum certain of prevailing wage rate. The City Council shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.

Wage rates incorporated in agreement and in invitation to bid. The prevailing wage rate to be paid for each craft or type of worker needed to construct the public work shall be specified in the invitation to bid for this Project and is incorporated by reference herein.

Determination final. The City Council's determination of the general prevailing rate of per diem wages is final.

Penalty. A contractor or subcontractor who violates this provision shall pay to the City sixty dollars ($60) for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the invitation to bid and this contract. The City Council shall use any money collected under this provision to offset the costs incurred in the administration of this provision. A contractor or subcontractor does not violate this provision if the City Council, in awarding the bid for this contract, does not determine the prevailing wage rates and specify the rates in the invitation to bid and in this contract.

Maintenance of wage record. Contractor agrees, covenants, and guarantees that it and its subcontractor(s) shall keep a record showing:

1. the name and occupation of each worker employed by the contractor(s) and subcontractor(s) in the construction of this public work; and
2. the actual per diem wages paid to each worker.

Inspection of wage record. The record shall be open at all reasonable hours to inspection by the officers and agents of the City.

Payment greater than prevailing rate not prohibited. This provision does not prohibit the payment to a worker employed on a public work an amount greater than the general prevailing rate of per diem wages.

Reliance on certificate of subcontractor. The contractor awarded this bid is entitled to rely on a certificate by a subcontractor regarding the payment of all sums due those working for the subcontractor until the contrary has been determined.

Duty of City to hear complaints and withhold payment. The City Council shall:

1. take cognizance of complaints of all violations of this provision committed in the execution of the construction of this public work; and
2. withhold money forfeited or required to be withheld under this provision from the payments to the contractor(s) under the bid contract, except that the City may not withhold money from other than the final payment without a determination by the City Council that there is good cause to believe that the contractor has violated this provision.

Complaint; initial determination. The City Council shall comply with Sections 2258.023 and 2258.056, Government Code, in the initial determination of a complaint presented pursuant to this provision.

For the purposes of this Project, the general prevailing rate of per diem wages are the wage the rates set forth on the following page(s).

"General Decision Number: TX20260007 05/18/2026

State: Texas

Construction Types: Heavy

Counties: Texas Counties of
Atascosa, Bandera, Bastrop, Bell, Bexar,
Brazos, Burleson, Caldwell, Comal,
Coryell, Guadalupe, Hays, Kendall,
Lampasas, McLennan, Medina, Robertson,
Travis, Williamson and Wilson

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McLennan and Willi

Modification Number Publication Date
0 01/02/2026
1 05/18/2026

SUTX2011-006 08/03/2011

	Rates	Fringes
WELDER	$ 15.97	0.00
TRUCK DRIVER: TANDEM AXLE TRACTOR W/SEMI TRAILER	$ 12.81	0.00
TRUCK DRIVER: SINGLE OR TANDEM AXLE DUMP TRUCK	$ 11.68	0.00
TRUCK DRIVER (SINGLE AXLE)	$ 11.79	0.00
TRUCK DRIVER (OFF ROAD HAULER)	$ 11.88	0.00
TRUCK DRIVER (LOWBOY-FLOAT)	$ 15.66	0.00
TRAFFIC SIGNALIZATION: TRAFFIC SIGNAL INSTALLATION, (TRAFFIC SIGNAL/LIGHT POLE WORKER)	$ 16.00	0.00
STEEL WORKER (STRUCTURAL)	$ 19.29	0.00
STEEL WORKER (REINFORCING)	$ 14.00	0.00
SERVICER	$ 14.51	0.00
POWER EQUIPMENT OPERATOR: SCRAPER	$ 12.27	0.00
POWER EQUIPMENT OPERATOR: MOTOR GRADER, ROUGH	$ 14.63	0.00
POWER EQUIPMENT OPERATOR: MOTOR GRADER, FINE GRADE	$ 18.51	0.00
POWER EQUIPMENT OPERATOR: MECHANIC	$ 17.10	0.00
POWER EQUIPMENT OPERATOR: FRONT END LOADER, 3 CY OR LESS	$ 13.04	0.00
POWER EQUIPMENT OPERATOR: FOUNDATION DRILL, TRUCK MOUNTED	$ 16.93	0.00
POWER EQUIPMENT OPERATOR: CRAWLER TRACTOR	$ 15.67	0.00
POWER EQUIPMENT OPERATOR: BROOM OR SWEEPER	$ 11.04	0.00
POWER EQUIPMENT OPERATOR: BOOM TRUCK	$ 18.36	0.00
POWER EQUIPMENT OPERATOR: ASPHALT DISTRIBUTOR	$ 15.55	0.00
POWER EQUIPMENT OPERATOR: (TRENCHING MACHINE, HEAVY)	$ 18.48	0.00
POWER EQUIPMENT OPERATOR: (SPREADER BOX)	$ 14.04	0.00
POWER EQUIPMENT OPERATOR: (ROLLER, OTHER)	$ 10.50	0.00
POWER EQUIPMENT OPERATOR: (ROLLER, ASPHALT)	$ 12.78	0.00
POWER EQUIPMENT OPERATOR: (RECLAIMER/PULVERIZER)	$ 12.88	0.00
POWER EQUIPMENT OPERATOR: (PAVEMENT MARKING MACHINE)	$ 19.17	0.00
POWER EQUIPMENT OPERATOR: (MILLING MACHINE)	$ 14.18	0.00
POWER EQUIPMENT OPERATOR: (LOADER/BACKHOE)	$ 14.12	0.00
POWER EQUIPMENT OPERATOR: (FRONT END LOADER, OVER 3 CY)	$ 13.21	0.00
POWER EQUIPMENT OPERATOR: (EXCAVATOR OVER 50,000 LBS)	$ 17.71	0.00
POWER EQUIPMENT OPERATOR: (EXCAVATOR 50,000 LBS OR LESS)	$ 12.88	0.00
POWER EQUIPMENT OPERATOR: (DIRECTIONAL DRILLING OPERATOR)	$ 17.24	0.00
POWER EQUIPMENT OPERATOR: (DIRECTIONAL DRILLING LOCATOR)	$ 11.67	0.00
POWER EQUIPMENT OPERATOR: (CRANE, LATTICE BOOM OVER 80 TONS)	$ 19.38	0.00
POWER EQUIPMENT OPERATOR: (CRANE, LATTICE BOOM 80 TONS OR LESS)	$ 15.87	0.00
POWER EQUIPMENT OPERATOR: (CRANE, HYDRAULIC 80 TONS OR LESS)	$ 18.36	0.00
POWER EQUIPMENT OPERATOR: (CONCRETE PAVEMENT FINISHING MACHINE)	$ 15.48	0.00
POWER EQUIPMENT OPERATOR: (ASPHALT PAVING MACHINE)	$ 14.36	0.00
POWER EQUIPMENT OPERATOR: (AGRICULTURAL TRACTOR)	$ 12.69	0.00
PAINTER (STRUCTURES)	$ 18.34	0.00
LABORER: PIPELAYER	$ 12.79	0.00
LABORER: ASPHALT RAKER	$ 12.12	0.00
LABORER (WORK ZONE BARRICADE SERVICER)	$ 11.85	0.00
LABORER (LABORER, UTILITY)	$ 12.27	0.00
LABORER (LABORER, COMMON)	$ 10.50	0.00
LABORER (FLAGGER)	$ 9.45	0.00
FORM BUILDER/FORM SETTER (STRUCTURES)	$ 12.87	0.00
FORM BUILDER/FORM SETTER (PAVING & CURB)	$ 12.94	0.00
ELECTRICIAN	$ 26.35	0.00
CEMENT MASON/CONCRETE FINISHER (PAVING AND STRUCTURES)	$ 12.56	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least $13.65 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract from May 11, 2026, through December 31, 2026. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than "SU", "UAVG", "SA", or "SC" denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The "SU" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that

classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

"SU" wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The "SA" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the "SA" identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

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END OF GENERAL DECISION

"

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE SECTION 2274.002

State law requires verification from a Company for contracts (which includes contracts formed through purchase orders) involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

By signing below, Company hereby verifies the following:

1. Company does not boycott energy companies; and
2. Company will not boycott energy companies during the term of the contract.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

The following definitions apply to this state statute:

(1) "Boycott energy company" means without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by Paragraph (A); and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

By signing below, Contractor hereby verifies that Section 2274.002 does not apply to this contract due to the following (check all that apply):

- ☐ Contractor is a sole proprietor; or
- ☐ Contractor has less than 10 full-time employees; or
- ☐ Contract value is for less than $100,000.00.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE SECTION 2274.002

State law requires verification from a Company for contracts (which includes contracts formed through purchase orders) involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

By signing below, Company hereby verifies the following:

1. Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. Company will not discriminate during the term of the contract against a firearm entity or firearm trade association.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

The following definitions apply to this state statute:

(1) "Ammunition" means a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile;

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit;

(3) "Discriminate against a firearm entity or firearm trade association":

(A) means, with respect to the entity or association, to:

(i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association;

(ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or

(iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and

(B) does not include:

(i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and

(ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing
an existing business relationship, or decision to terminate an existing business relationship:

(aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or

(bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association;

(4) "Firearm" means a weapon that expels a projectile by the action of explosive or expanding gases;

(5) "Firearm accessory" means a device specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and an item used in conjunction with or mounted on a firearm that is not essential to the basic function of the firearm. The term includes a detachable firearm magazine;

(6) "Firearm entity" means:

(A) a firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer: and

(B) a sport shooting range as defined by Section 250.001, Local Government Code;

(7) "Firearm trade association" means any person, corporation, unincorporated association, federation, business league, or business organization that:

(A) is not organized or operated for profit and for which none of its net earnings inures to the benefit of any private shareholder or individual;

(B) has two or more firearm entities as members; and

(C) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

By signing below, Contractor hereby verifies that Section 2274.002 does not apply to this contract due to the following (check all that apply):

☐ Contractor is a sole proprietor; or

☐ Contractor has less than 10 full-time employees; or

☐ Contract value is for less than $100,000.00.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE SECTION 2271.002

State law requires verification from a Company for contracts (which includes contracts formed through purchase orders) involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

The following definitions apply to this state statute:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

By signing below, Contractor hereby verifies that Section 2271.002 does not apply to this contract due to the following (check all that apply):

- ☐ Contractor is a sole proprietor; or
- ☐ Contractor has less than 10 full-time employees; or
- ☐ Contract value is for less than $100,000.00.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

CERTIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2252

By signing below, Contractor acknowledges that effective September 1, 2017, the City is required to comply with Section 2252.151, Subchapter F of the Texas Government Code, enacted by Senate Bill 252 (85th Texas Legislature). The Code requires the Texas Comptroller to prepare and maintain a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization. Further, the law prevents a governmental entity from entering into a contract with a company that is identified on the list prepared and maintained by the Texas Comptroller. By executing this Agreement, Contractor certifies that it is not a company identified on the Texas Comptroller's list as a company engaged in business with Iran, Sudan, or foreign terrorist organization, and notwithstanding anything contained herein, the representations and covenants contained in Texas Government Code Section 2252.152 shall survive termination of this agreement until the statute of limitations has run.

PRINT COMPANY NAME: _____

SIGNED BY: _____

Print Name & Title: _____

Date Signed: _____

NOTICE TO COMPLETE FORM 1295

Beginning January 1, 2016, business entities entering into certain contracts with the Waco City Council for services, goods or other property to be used by the City of Waco are required to complete a Certificate of Interested Parties Form 1295 on the Texas Ethics Commission website. A Form 1295 may also be required if a contract with the City is changed, amended, extended, or renewed.

You are receiving this notice because the City of Waco is entering into a contract with your business entity or an existing contract is being changed, amended, extended, or renewed. The City of Waco's contract tracking number (referred to as the identification number on the Ethics Commission form in box 3) is:

RES_____

To complete a Form 1295, you must go to the website of the Texas Ethics Commission at: https://prd.tecprd.ethicsefile.com/File/. The first time a business uses the form, it must use the "Logging In the First Time."

Form 1295 is an electronic form that must be filled in online by a business entity. "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. It includes for-profit and non-profit entities.

Once Form 1295 is completed online, the Form must be printed and executed by an authorized agent of the business entity. The Form will have a unique certification number assigned by the Commission in the upper right corner. The Form 1295 must be sent to the City of Waco to the following person by fax, email, U.S. mail, or delivery service:

[Insert name, address, email, fax, etc., for where to send the form]

Name:
Department:
Mailing Address:
Delivery Address:
Email: Fax: (254)

Please return Form 1295 on or before 5:00 p.m. on:

Once received, the City will acknowledge to the Texas Ethics Commission through the Commission's website that the Form 1295 has been received by the City. Once acknowledged by the City, the Form 1295 will be posted on the Commission's website.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said_____, this the_____day of_____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

Sample Form Not for Use

PROCEDURE TO PROTEST AWARD RECOMMENDATION

A. If a firm or person believes it is injured as a result of an RFB, a written protest may be filed.

B. The written protest may be delivered to the City's Purchasing Services Department ("Purchasing") in person to the department offices located at **1415 N. 4th St., Waco, Texas, 76707,** or by certified mail, return receipt requested, to the following address:

Purchasing Services c/o City of Waco

Post Office Box 2570

Waco, Texas 76702-2570

C. The written protest must be filed no later than 5:00 p.m. on the fifth (5th) business day from the date of receipt of notification of the recommendation for the contract award.

D. The written protest must include the following information before it may be considered:

1. Name, mailing address, and business phone number of the protesting party;
2. Identification of the RFB being protested;
3. A precise and concise statement of the reason(s) for the protest which should provide enough factual information to enable a determination of the basis of the protest; and
4. Any documentation or other evidence supporting the protest.

E. In conjunction with the department that requested the RFB, Purchasing will attempt to resolve the protest, which may at Purchasing's discretion include meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution of each ground addressed in the protest will be provided to the city manager or designee assistant city manager.

F. If the Purchasing is unable to resolve the protest, the protesting party may request the protest be reviewed and resolved by the city manager or designee assistant city manager.

G. A request for the city manager's review must be in writing and received by the Purchasing within three (3) business days from the date the Purchasing informs the protesting party the protest cannot be resolved. The request for review must be delivered in person to the Purchasing at the address stated above or by certified mail, return receipt requested, to the mailing address stated above.

H. If a protesting party fails or refuses to request a review by the city manager within the three (3) days, the protest is deemed finalized and no further review by the city is required.

I. Applicable documentation and other information applying to the protest may be submitted by the protesting party to the Purchasing before review by the city manager. If the protesting party requests a review by the city manager, such documentation will be forwarded to the city manager or designee assistant city manager for consideration. The city manager or designee assistant city manager may likewise notify the protesting party or any city department to provide additional information. The decision reached by the city manager or designee assistant city manager will be final, but the protesting party may still appear before the City Council during the Hearing of the Visitors session of a City Council meeting.

SAMPLE CONTRACT

A sample contract is being provided for information purposes so that the Bidder will be familiar with the possible form of the contract. The City of Waco reserves the right to revise this contract form.

- **EJCDC 2007 - General Conditions for Construction**
- **EJCDC 2007 - Supplementary Conditions**
- **EJCDC 2007 - Form of Agreement, Owner & Contractor - Sample**
- **Payment and Performance Bond - Sample**

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

ACEC
American Council of Engineering Companies

The Associated General Contractors of America
SKILL RESPONSIBILITY INTEGRITY

ASCE American Society of Civil Engineers

National Society of Professional Engineers
Professional Engineers in Private Practice

AMERICAN COUNCIL OF ENGINEERING COMPANIES

_____

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

_____

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_____

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

Endorsed by

CSI

CONSTRUCTION SPECIFICATIONS INSTITUTE

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

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www.acec.org

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(703) 548-3118
www.agc.org

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*—The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*—See Paragraph 11.01 for definition.

17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*—The individual or entity named as such in the Agreement.

20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*—Sections of Division 1 of the Specifications.

22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.

23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*—Polychlorinated biphenyls.

31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.

37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.

47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.

48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work

Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

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

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

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

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work*: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work*: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation , (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

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

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or

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

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

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

4.02 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

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

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

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

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

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

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

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

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

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

   a. reviewing and checking all such information and data;

   b. locating all Underground Facilities shown or indicated in the Contract Documents;

   c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and

   d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

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

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as

Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.

E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier,

or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

   a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

   b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

6. include completed operations coverage:

   a. Such insurance shall remain in effect for two years after final payment.

   b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

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

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

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

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have

to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

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

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably

request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

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

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and

3) it has a proven record of performance and availability of responsive service.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,

b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services; and

4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. *Engineer's Cost Reimbursement*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

F. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract

Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

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

6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by

any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

6.12 *Record Documents*

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

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify

owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

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

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

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

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 *Indemnification*

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

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages,

compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.

C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

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

9.02 *Visits to Site*

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

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

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

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

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

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

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

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

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

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

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

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

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

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

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

10.05 *Claims*

A. *Engineer's Decision Required*: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action*: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part;

2. approve the Claim; or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable

to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

   a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

   b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

   c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

   d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

   e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

   f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

   g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

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

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

11.02 *Allowances*

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

B. *Cash Allowances:*

1. Contractor agrees that:

    a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

    b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

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

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

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

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

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. *Applications for Payments:*

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

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

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

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

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

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

c. there are other items entitling Owner to a set-off against the amount recommended; or

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

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

14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

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

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

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

   b. consent of the surety, if any, to final payment;

   c. a list of all Claims against Owner that Contractor believes are unsettled; and

   d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full,

Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

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

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

C. *Payment Becomes Due:*

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

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

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

15.02 *Owner May Terminate for Cause*

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

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's repeated disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance,

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

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

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

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days

to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

2. agrees with the other party to submit the Claim to another dispute resolution process; or

3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract ("Paragraph"), EJCDC® C-700 (2007 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

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 thereto. In some cases, deleted text is shown with ~~strikeover~~ and added text by underline.

SC 1.01.A.3 Amend Paragraph 1.01.A.3 "Application for Payment" to read as follows:

Application for Payment—The form acceptable to Engineer and Owner which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

SC 1.01.A.19 Amend Paragraph 1.01.A.19 to read as follows:

Engineer—The individual or entity named as such in the Agreement. The Engineer acts as the Owner's representative.

SC 1.01.A.29 Amend Paragraph GRAPH 1.01.A.29 to read as follows:

Owner—The ~~individual or~~ entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed, which is the City of Waco, Texas. The terms "Owner" and "City" may be used interchangeably.

SC 1.01.A. Amend Paragraph 1.01.A.44 to read as follows:

Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof. Substantial Completion is further defined as that degree of completion of the Project's operating facilities or systems sufficient to provide Owner the full time, uninterrupted, and continuous beneficial operation of the Work.

SC 1.02.C.1 Amend Paragraph 1.02.C.1 to read as follows:

The word "day" means a calendar day of 24 hours measured from midnight to the next midnight, no days being excepted.

SC 2.03.A. Amend Paragraph 2.03.A to read as follows:

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

SC 2.04.A Amend Paragraph 2.04.A to read as follows:

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run. Contractor shall contact the Construction Inspector a minimum of 24 hours prior to beginning (or recommencing after a hiatus) work.

SC 3.03.A.3 Amend Paragraph 3.03.A.3 to read as follows:

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~~ knew or reasonably should have known thereof.

SC 3.05 Amend Paragraph 3.05.A to read as follows:

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, 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 Engineer's ~~its~~ consultants, including electronic media editions; 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.

SC 4.02.A As required by Paragraph 4.02.A "*Reports and Drawings*" the following report(s) known to Owner is/are identified:

Langerman Foster Engineering Company Drilling Services Report for District 3 2026 Mill and Overlay project dated January 7, 2026.

SC 4.02.B Delete Paragraph 4.02.B in its entirety.

SC 4.03.C Amend Paragraph 4.03.C by adding the following as 4.03.C.4:

4. All adjustments in price are subject to the approval of the Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 4.04.B Amend Paragraph 4.04.B by adding the following as 4.04.B.3:

3. All adjustments in price are subject to the approval of the Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 4.06.A As required by Paragraph 4.06.A "*Reports and Drawings*" Engineer has identified reports and drawings relevant to this project. Required information is included in the technical specifications.

SC 4.06.B Delete Paragraph 4.06.B in its entirety.

SC 4.06.G Delete Paragraph 4.06.G in its entirety.

SC 4.06.H Amend Paragraph 4.06.H to change the font, capitalize text as follows and amend to read as follows:

TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND ENGINEER, AND THE OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS, AND SUBCONTRACTORS OF EACH AND ANY OF THEM FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT ~~OR ARBITRATION~~ OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO A HAZARDOUS ENVIRONMENTAL CONDITION CREATED BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE. NOTHING IN THIS PARAGRAPH 4.06.H SHALL OBLIGATE CONTRACTOR TO INDEMNIFY ANY

INDIVIDUAL OR ENTITY FROM AND AGAINST THE CONSEQUENCES OF THAT INDIVIDUAL'S OR ENTITY'S OWN NEGLIGENCE.

SC 4.06 Amend Paragraph 4.06 by adding the following 4.06.J:

J. All adjustments in price resulting from the discovery or creation of a Hazardous Environmental Condition are subject to the approval of the Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 5.03.B Delete Paragraph 5.03.B in its entirety.

SC 5.04 Delete Paragraph 5.04 and insert the following

5.04 Contractor's Insurance

A. The Contractor's financial integrity is of interest to the City. Therefore, subject to a Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of the contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized to do business in the State of Texas that are rated A- or better by A.M. Best Company and/or otherwise acceptable to the City in the following types and amounts:

Type	Amount
Workers' Compensation	Statutory
Employer's Liability	$1,000,000/$1,000,000/$1,000,000
Comprehensive General Liability Including: • Premises/Operations • Independent Contractors • Products Liability/Completed Operations • Personal & Advertising Injury • Broad form property damage, to include fire legal liability	$1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles	$1,000,000 per occurrence or its equivalent on a combined single limit (CSL basis).
Builders Risk	Amount of the contract or replacement value of the facility

B. **Term of Policy**: The required insurance coverage must remain in effect for a two (2) year period following the final payment to Contractor and at all times when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07.

C. **Modification of Insurance Requirement:** The City reserves the right to review these insurance requirements during the effective period of the contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will the City allow a modification which results in the City incurring increased risk.

D. **Proof of Insurance Required and When to Submit:**

1. *Examination & Approval*. All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.
2. *Contractors with Multiple Projects*. Contractors who have multiple projects with the City will provide the general liability aggregate in a project form with the name and/or location of the project listed in the comments section of the certificate of insurance.
3. *When to Submit*. Prior to the execution of the contract by the City of Waco and before commencement of any work under this contract, Contractor shall furnish original proof of insurance to the City's Risk Manager which is clearly labeled with the contract name and City department. The proof will include completed/current Certificate(s) of Insurance, endorsements, exclusions, and/or relevant extracts from the insurance policy, or copies of policies. Thereafter, new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy. No officer or employee other than the City's Risk Manager shall have authority to waive this requirement.
4. *Additional Insured*. Except for Workers' Compensation and Employers' Liability, the City, its elected officials, officers, servants, agents, volunteers and employees shall be named as additional insureds. No officer or employee, other than the City Risk Manager, shall have authority to waive this requirement. The Engineer shall also be named as an additional insured.
5. *Other-Insurance Endorsement* -- All insurance policies are to contain or be endorsed to contain the following additional provisions:
    a. "Other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy; and
    b. Provide not less than ten (10) calendar days advance notice to the City of any suspension, cancellation, non-renewal or material change in coverage.
6. *Agent Information*. The certificate(s) or other proof of insurance must be completed by an agent authorized to bind the named underwriter(s) and their company to the

coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number. The proof of insurance shall be sent directly from the insurance agent to the City's Risk Manager by U.S. Postal Service to City of Waco, ATTN: Risk Manager, P.O. Box 2570, Waco, Texas 76702-2570 or by delivery service to 1415 North 4th Street, Waco, Texas 76707. To send by fax or email, please contact the Risk Manager at 254-750-8061 to obtain the fax number or email address.

7. *Precondition to Performance & Basis for Termination*. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy have been delivered to and approved by the City's Risk Manager. The Contractor understands that it is the contractor's sole responsibility to provide this necessary information to the City and that failure to timely comply with these insurance requirements shall be a cause for termination of a contract. If the City determines that it will deny payment, not perform, or terminate the contract because of the failure to provide certain information or documents, the City shall give the contractor notice of that determination and allow contractor fifteen (15) days to correct the deficiency.
8. *Waiver of Subrogation*. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
9. *Notice of Cancellation, Non-renewal, Material Change*. When there is a cancellation, non-renewal, or material change in coverage which is not made pursuant to a request by the City, Contractor shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Contractor knows of said change in advance, or ten (10) days' notice after the change, if the Contractor did not know of the change in advance. Such notice must be accompanied by a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy.

E. The City of Waco, as a State of Texas Governmental Entity and Municipality, is required to comply with the Texas Labor Code. Specifically Texas Labor Code – Section 406.096 directs Contractors who enter into a building or construction Contract with a Municipality to certify in writing that (1) the **contractor** provides workers' compensation insurance coverage for each employee of the contractor employed on public projects, and (2) the contractor receive a certificate from each **subcontractor** showing that every employee of the subcontractor is covered by workers' compensation insurance. Texas Administrative Code Title 28 Section 110.110(c)(7) requires the following language to be contained in building and construction bid specifications and contracts:

Workers' Compensation Insurance Coverage

A. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance

coverage for the person's or entity's employees providing services on a project, for the duration of the project.

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

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by Paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

SC 5.06 Delete Paragraph 5.06 in its entirety.

SC 5.07 Delete Paragraph 5.07 in its entirety.

SC 5.08 Delete Paragraph 5.08 its entirety.

SC 5.09 Delete Paragraph 5.09 its entirety.

SC 5.10 Delete Paragraph 5.10 in its entirety.

SC 6.01.C Amend Paragraph 6.01 by adding 6.01.C to read as follows:

C. Before starting work, the Contractor shall designate in writing a representative who shall have complete authority to act for it. An alternate representative may be designated as well. The representative or alternate shall be present at the Work site whenever work is in progress or whenever actions of the elements necessitate the Contractor's presence to take measures necessary to protect the Work, persons, or property. Any order or communication given to this representative shall be deemed delivered to the Contractor. A joint venture shall designate only one representative and alternate. In the absence of the Contractor or its representative, instructions or directions may be given by the Engineer to the superintendent or person in charge of the specific work to which the order applies. Such order shall be complied with promptly and referred to the Contractor or its representative.

SC 6.02.B Amend Paragraph 6.02.B to read as follows:

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Normal working hours and days are defined as 7:00am to 6:00pm on Monday through Friday. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer. For work outside of the normal working hours, Contractor shall be responsible for compensation to the City of Waco at the rates identified in the Special Project Provisions. Payment shall be obtained from the retainage withheld by the City of Waco.

SC 6.04.A Amend Paragraph 6.04.A by adding 6.04.A.3 which shall read:

3. If an event or circumstance occurs which Contractor believes may require a change in the Progress Schedule, Contractor shall notify the Construction Inspection immediately.

SC 6.05.A Amend Paragraph 6.05.A by adding the following at the end of the Paragraph:

Substitutions that were not submitted as part of the bid response will not be approved except in unusual circumstances.

SC 6.06.B Amend Paragraph 6.06.B to read as follows:

B. Contractor shall report to the Owner the identity of each Subcontractor that has a Subcontract ~~If the Supplementary conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner~~ in advance of the date the Subcontractor performs any part of the Work, for acceptance by Owner ~~by specified date prior to the Effective Date of the Agreement~~, and if Contractor has submitted a list as required herein ~~thereof in accordance with the Supplementary Conditions~~, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

SC 6.06.G Amend Paragraph 6.06.G to read as follows:

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. ~~Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or supplier, Contractor will obtain the same.~~

SC 6.06.H Amend Paragraph 6.06 by adding the following:

H. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by a particular Subcontractor or Supplier.

SC 6.07.B Delete Paragraph 6.07.B.

SC 6.07.C Amend Paragraph 6.07.C, including changing the font and capitalizing the text, to read as follows:

C. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND ENGINEER, AND THE ELECTED OFFICIALS, OFFICERS, DIRECTORS, 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.

SC 6.07.D Amend Paragraph 6.07 by adding Paragraph 6.07.D which reads as follows:

D. Contractor shall, at its sole expense, defend and pay all damages, fees, royalties, and costs awarded in any proceeding brought against Owner, its employees and agents, in which it is claimed that the manufacture, sale, or use of any treatment process, material and equipment, or parts thereof furnished thereunder constitutes an infringement of any patent or other proprietary information right, provided Contractor is promptly notified of the commencement of any such proceedings. Contractor's indemnity, as to use, applies only when infringement occurs from the normal use for which such treatment process, material, and equipment were designed. Owner may, at its option, be represented at any such proceeding.

1. If such manufacture, sale, or use is held in any such proceeding to constitute an infringement and is enjoined, Contractor, at its expense, shall either procure for Owner the right to manufacture, sell, and use such treatment process, material and equipment; or pay the costs for damages, fees, or royalties.

SC 6.08.A Amend Paragraph 6.08.A to read as follows:

A. ~~Unless otherwise provided in the Supplementary Conditions,~~ Contractor shall obtain and pay for all construction permits and licenses. If any City of Waco permits are required, Contractor shall apply for the permits, but shall not be required to pay permit fees. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor will be responsible for filing the required Notice of Intent for the Storm Water Prevention Plan and paying any applicable fees. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner

shall pay all charges of utility owners for connections for providing permanent service to the Work.

SC 6.09.B Amend Paragraph 6.09.B to read as follows:

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

SC 6.09.C Amend Paragraph 6.09.C to read as follows:

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

SC 6.09.D Amend Paragraph 6.09 by adding Paragraph 6.09.D which reads as follows:

D. While not intended to be inclusive of all Laws or Regulations for which Contractor may be responsible under Paragraph 6.09, the following Laws or Regulations are included as mandated by statute or for the convenience of Contractor:

1. Prevailing Wage Rates:

Texas Government Code Chapter 2258 requires a worker employed by a contractor or subcontractor in the execution of a contract for the public work by or on behalf of political subdivision of the state to be paid a prevailing wage rate.

a. In accordance with Government Code 2258.021 through 2258.023, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workers, and mechanics employed by Contractor or Subcontractors in the execution of the Contract.

b. The prevailing wage rate to be paid for each craft of type of worker needed to construct the Project as well as other information regarding this law is included in this bid package.

c. Prior to approval of the Final Payment, Contractor must submit the form attached to these Supplementary Conditions with the information for all individuals involved in performing work under this contract.

SC 6.10.B Amend Paragraph 6.10 by adding 6.10.B which read as follows:

B. Under the Texas Tax Code Section 151.309, the City of Waco is exempt the payment of sales tax. In addition, when the City contracts with a third party to make certain improvements to real property, purchases of materials/consumable items that are physically incorporated into that real property may also exempt from state and local sales tax. Items qualifying for this exemption must be used up entirely on a job for the City of Waco. Additional information regarding Texas Sales Tax and the possibility of an exemption from payment was included in this bid package.

SC 6.11 Amend Paragraphs 6.11.B and 6.11C to read as follows:

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

C. *Cleaning:* ~~Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.~~ At the completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery and surplus materials. Contractor shall leave the site clean and ready for the Owner prior to initiating project completion process (requesting punch list, etc.). If the Contractor fails to comply with these requirements, the Owner may do so and pass along all related costs to the Contractor.

SC 6.11.A Amend Paragraph 6.11.A.3 by changing the font, capitalizing the text, and adding wording so it read as follows:

3. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND ENGINEER, AND THE ELECTED OFFICIALS, OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS OF EACH AND ANY OF THEM FROM AND

AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY CLAIM OR ACTION, LEGAL OR EQUITABLE, BROUGHT BY ANY SUCH OWNER OR OCCUPANT AGAINST OWNER, ENGINEER, OR ANY OTHER PARTY INDEMNIFIED HEREUNDER TO THE EXTENT CAUSED BY OR BASED UPON CONTRACTOR'S PERFORMANCE OF THE WORK.

SC 6.13.C Amend Paragraph 6.13.C to read as follows:

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The ~~Supplementary Conditions~~ City of Waco Standard Specifications for Construction (2013) identify ~~any~~ Owner's safety programs that are applicable to the Work.

SC 6.13 Amend Paragraph 6.13 to add G and H as follows:

G. Confined Space – The City of Waco anticipates that completion of this contract will require working within a confined space. Access to such a work area will only be allowed through compliance with a project specific program meeting applicable OSHA standards. The CONTRACTOR shall review any hazards confronted during the confined space entry with the City's designated representative.

H. Trench Safety – The City of Waco anticipates that completion of this contract will require working in excavations deep enough to dictate the use of trench safety protective measures. Access to any such excavations will only be allowed through compliance with a project specific program meeting applicable OSHA standards. The CONTRACTOR shall submit the name and cell phone number of the Qualified Person.

SC 6.20 Delete Paragraph 6.20.A in its entirety and insert the following:

A. CONTRACTOR AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED PURSUANT TO THE CONTRACT DOCUMENTS AND AGREES TO INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS AND ENGINEER OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH

OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY, OR IN CONNECTION WITH, THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY. THE CONTRACTOR AGREES THAT ANY INSURANCE CARRIER INVOLVED SHALL NOT BE ENTITLED TO SUBROGATION UNDER ANY CIRCUMSTANCES AGAINST THE CITY, ITS OFFICERS, OFFICIALS, AND EMPLOYEES.

SC 6.20 Amend Paragraph 6.20.B to read as follows:

B. In any and all claims against Owner or Engineer or any of their elected officials, officers, directors, members, employees, partners, agents, consultants or subcontractors or servants by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

SC. 6.20.C Delete Paragraph 6.20.C.

SC 8.07.A Amend Paragraph 8.07.A to read as follows:

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03. Any change order related to a change in price must be approved as required by state law, city charter, or city ordinance.

SC 9.01.B Amend Paragraph 9.01 by adding Paragraph 9.01.B which reads as follows:

B. Owner is a municipal corporation. Under state law, its city charter, and ordinances, final authority on certain matters lies with the City Council or City Manager. Consequently, the final authority on some decisions, particularly those related to price changes and

adjustments, lies with Owner. On questions relating to quantities, the acceptability of material, equipment or work, the execution, progress or sequence of work, and the interpretation of Specifications or drawings, the decision of the Engineer is final and binding as provided in this Agreement, unless otherwise ordered by the Owner.

SC 9.04.A Amend Paragraph 9.04.A by adding the following sentence to the end of Paragraph 9.04A:

All adjustments in price are subject to the approval of the Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 9.06 Amend Paragraphs 9.06.C and 9.06.D to read as follows:

C. In connection with Engineer's authority as to Change Orders, see Paragraph 9.01.B and Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Paragraph 9.01.B and Article 14.

SC 9.07.A Amend Paragraph 9.07.A to read as follows:

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraphs 9.01.B. and 10.05.

SC 9.08.C Amend Paragraph 9.08.C to read as follows:

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraphs 9.01.B. and 10.05.

SC 10.03 Amend Paragraph 10.03.A.3 to read as follows:

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A. and provided that all adjustments in price are subject to the approval of the

Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 12.01 Amend Paragraph 12.01 by adding Paragraph 12.01.D. which reads as follows:

D. All adjustments in price are subject to approval of the Owner, a municipal corporation, as required by state law, city charter, or city ordinance.

SC 13.03.B Amend Paragraph 13.03.B to read as follows:

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

SC 13.03.G Amend Paragraph 13.03 by adding 13.03.G which shall read as follows:

G. Contractor shall coordinate bacteriological testing and pressure testing with City of Waco.

SC 13.04 Amend Paragraph 13.04.D to read as follows:

D. If the uncovered Work is not found to be defective, Contractor shall be allowed to negotiate an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

SC 14.02.A Amend Paragraph 14.02.A by adding 14.02A.4 which shall read as follows:

4. Contractor shall submit a cash flow projection for the remainder of the project with each Application for Payment.

SC 14.02 Amend Paragraph 14.02.C to read as follows:

1. ~~Ten~~Twenty-five (25) days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

SC 14.04 Amend Paragraph 14.04.C to read as follows:

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have fourteen (14)~~seven~~ days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within twenty-one (21) ~~14~~ days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said twenty-one (21)~~14~~ days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

SC 14.07.A.2. Amend Paragraph 14.07.A.2 to read as follows:

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

   b. consent of the surety, if any, to final payment;

   c. a list of all Claims against Owner that Contractor believes are unsettled; ~~and~~

   d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work; and~~.~~

   e. a written release from any private property owner whose property was used in connection with this Project that the condition of their property is acceptable.

SC 14.07.B.1 Amend Paragraph 14.07.B.1 to read as follows:

4. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. Engineer's letter shall include a description of the Work being accepted. At the same time Engineer will also give written notice to Owner and Contractor that

the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

SC 14.10.A Amend Article 14 by adding Paragraph 14.10.A which reads as follows:

A. Arrears of Taxes Offset to Debt Against City -- In accordance with the City of Waco Charter Article VIII, Section 8, the City shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City of Waco for taxes in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

SC 15.02 Amend Paragraph 15.02 by adding Paragraph 15.02.G. which reads as follows:

G. The City may, by written notice to the Contractor, cancel this contract without liability to the City if it is determined by the City that gratuities have been offered to any officer or employee of the City with a view toward securing a contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations in respect to the performance of such a contract. In the event City, as set forth in this Paragraph, cancels this contract the City shall be entitled to recover from the Contractor all additional costs incurred by City as a result of the cancellation.

SC 16.01.A Amend Paragraph 16.01.A to read as follows:

A. Either Owner or Contractor may request non-binding mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

SC 17.05 Amend Paragraph 17.05 to read as follows:

17.05 Controlling Law and Venue.

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

B. Venue shall be in McLennan County, Texas.

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

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

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

ACEC
American Council of Engineering Companies

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ASCE American Society of Civil Engineers

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

Endorsed by

CONSTRUCTION SPECIFICATIONS INSTITUTE

SAMPLE

This Suggested Form of Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. The language contained in the Suggested Instructions to Bidders (EJCDC C-200, 2007 Edition) is also carefully interrelated with the language of this Agreement. Their usage is discussed in the Narrative Guide to the 2007 EJCDC Construction Documents (EJCDC C-001, 2007 Edition).

SAMPLE

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INTRODUCTION

This Suggested Form of Agreement between Owner and Contractor for Construction Contract (Stipulated Price) ("Agreement") has been prepared for use with the Suggested Instructions to Bidders for Construction Contracts ("Instructions to Bidders") (EJCDC C-200, 2007 Edition); the Suggested Bid Form for Construction Contracts ("Bid Form") (EJCDC C-410, 2007 Edition); and the Standard General Conditions of the Construction Contract ("General Conditions") (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the others. See also the Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition), and the Narrative Guide to the 2007 EJCDC Construction Documents (EJCDC C-001, 2007 Edition).

This Agreement form assumes use of a Project Manual that contains the following documentary information for a construction project:

- Bidding Requirements, which include the advertisement or invitation to bid, the Instructions to Bidders, and the Bid Form that is suggested or prescribed, all of which provide information and guidance for all Bidders; and

- Contract Documents, which include the Agreement, performance and payment bonds, the General Conditions, the Supplementary Conditions, the Drawings, and the Specifications.

The Bidding Requirements are not Contract Documents because much of their substance pertains to the relationships prior to the award of the Contract and has little effect or impact thereafter, and because many contracts are awarded without going through the bidding process. In some cases, however, the actual Bid may be attached as an exhibit to the Agreement to avoid extensive rekeying. (The definitions of terms used in this Agreement, including "Bidding Documents," "Bidding Requirements," and "Contract Documents," are set forth Article 1 of the General Conditions.)

Suggested provisions are accompanied by "Notes to User" to assist in preparing the Agreement. The provisions have been coordinated with the other forms produced by EJCDC. Much of the language should be usable on most projects, but modifications and additional provisions will often be necessary. When modifying the suggested language or writing additional provisions, the user must check the other documents thoroughly for conflicts and coordination of terms and make appropriate revisions in all affected documents.

All parties involved in construction projects benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location: doing so frequently leads to confusion and unanticipated legal consequences. When preparing documents for a construction project, careful attention should be given to the guidance provided in the Uniform Location of Subject Matter (EJCDC N-122).

EJCDC has designated Section 00520 for this Agreement. If this convention is used, the first page of the Agreement would be numbered 00520-1. If CSI's MasterFormat 04™ is being used for the Project Manual, consult MasterFormat 04 for the appropriate section number and number the pages accordingly.

For brevity, paragraphs of the Instructions to Bidders are referenced with the prefix "I," those of the Bid Form are referenced with the prefix "BF," and those of this Agreement are referenced with the prefix "A."

NOTE: EJCDC publications may be purchased from any of the organizations listed on the page immediately following the cover page of this document.

SAMPLE

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

THIS AGREEMENT is by and between City of Waco ("Owner") and _____ ("Contractor").

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:

The City of Waco District 3 Operational Street Maintenance & Pavement Rehabilitation project generally consists of concrete and street improvements, including but not limited to ADA ramps, sidewalk, curb and gutter, drive approaches, concrete fillets, concrete valley gutters, base failure repairs, asphalt pavement milling/overlaying, and all necessary components as shown on the project drawings and as specified herein.

ARTICLE 2 – THE PROJECT

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

District 3 Operational Street Maintenance & Pavement Rehabilitation

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by STV Incorporated (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents, except and unless the Owner designates itself or another to perform various Engineer functions and responsibilities.

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ARTICLE 4 – CONTRACT TIMES

4.01 *Time 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 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed and in-service in **220 calendar days** as provided in Paragraph 2.03 of the General Conditions and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions in **250 calendar days**. If a Contractor wants to perform work on Saturdays, Sundays, or City holidays, the Contractor shall seek approval by making a written request to City.

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 loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **$2,500.00** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion of the entire Work until the Work is substantially complete.

B. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **$1,000.00** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the amount below:

A. For all Work, at the total bid package price of
_____(words) ($XXX,XXX).

This price is also stated in Contractor's Bid, attached hereto as an exhibit.

SAMPLE

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. 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 account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of 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 in the General Requirements.

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 Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

a. 95 percent of Work completed (with the balance being retainage); and

b. 95 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 as Engineer shall determine in accordance with Paragraph 14.02.B.5 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 tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS

7.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

SAMPLE

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."

E. Contractor has considered the information known to Contractor; 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 Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 8.01.E below, Contractor does not consider that 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 Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement

SAMPLE

2. Performance bond.

3. Payment bond.

4. General Conditions (pages _____ to _____, inclusive).

5. Supplementary Conditions (pages _____ to _____, inclusive).

6. Specifications, Memos, Special Project Provisions and Permits as listed in the table of contents of the Project Manual.

7. Drawings listed on attached sheet index.

8. Addenda (numbers _____ to _____, inclusive).

9. Exhibits to this Agreement (enumerated as follows):

   a. Contractor's Bid (pages _____ to _____, inclusive).

   b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).

10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

    a. Notice to Proceed (pages _____ to _____, inclusive).

    b. Work Change Directives.

    c. Change Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

E. In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order:

1. The Agreement as originally executed and subsequently amended.
2. Permits and Licenses issued by governmental agencies
3. Special Project Provisions
4. Supplementary Conditions
5. EJCDC Standard General Conditions of the Construction Contract (2007)

SAMPLE

6. Requests for Information or Interpretation, Field Orders and Change Orders
7. Drawings, with details in drawings controlling over large-scale drawings
8. Project Technical Specifications and Reports
9. Waco Manual of Standard Detail (2015)
10. Waco Standard Specifications for Construction [except for General Provisions] (2013)
11. Request for Bid issued by Owner
12. Bid submitted by Contractor

ARTICLE 9 – MISCELLANEOUS

9.01 *Terms*

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

9.02 *Assignment of Contract*

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

9.03 *Successors and Assigns*

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

9.04 *Severability*

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

9.05 *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 9.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

SAMPLE

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.

9.06 Partial Invalidity

A. If any term, provision, covenant, or condition of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

9.07 Misspelled Words

A. Misspelling of one or more words in this contract shall not void this contract. Such misspelled words shall be read so as to have the meaning apparently intended by the parties.

SAMPLE

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

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

OWNER: City of Waco

Sign: _____

By: Ryan Holt

Title: City Manager

Approved as to Form and Legality:

_____

Title: City Attorney

Address for giving notices:

City of Waco

PO Box 2570

Waco, Texas 76701

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

CONTRACTOR

Sign: _____

By: _____

Title: _____

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

Attest: _____

Title: _____

Address for giving notices:

_____

_____

_____

_____

License No.: _____
(Where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:

_____

SAMPLE

Bond No._____

PERFORMANCE BOND

Required by City of Waco where contract is over $100,000

STATE OF TEXAS
COUNTY OF McLENNAN

KNOW ALL BY THESE PRESENTS: That we (1) _____, (2) a _____**,** of (3) _____, hereinafter called **Principal** and (4) _____ of _____, State of _____, which is duly authorized to do business in the State of Texas and is hereinafter called **Surety**, are held and firmly bound unto City of Waco of McLennan County, Texas in the amount of _____ **and 00/100th Dollars ($**_____**)** in lawful money of the United States, to be paid in McLennan County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with City of Waco dated the (5) _____ day of _____, A.D., 20___ , a copy of which is hereto attached and make a part hereof for the construction of:

_____, (herein called the "Work").

(1) Correct legal name of Contractor
(2) A Corporation, a Partnership, Limited Liability Company or an Individual, whatever the business entity form
(3) City and state of contractor's office
(4) Correct name of Surety along with city and state
(5) Leave dates blank. City will fill in with date of City Council action.

NOW THEREFORE, if the Principal shall well, truly and faithfully perform the work in accordance with the plans, specifications and contract documents during the original term thereof, and any extensions thereof which may be granted by the City of Waco, with or without notice to the Surety, and if Principal shall fully satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the City of Waco from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the City of Waco all outlay and expense which the City of Waco may incur in making good any default, then this obligation shall be void. Otherwise, this obligation remains in full force and effect.

For value received, Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work performed thereunder, or the plans, specifications, drawings, etc. accompanying same, with or without notice to Surety, shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder.

Surety's telephone number is (_____) _____. Any notice of claim shall be

SAMPLE

sent to Surety at:
Mailing address: _____

Address of surety company: _____.

IN WITNESS WHEREOF, this instrument is executed, this the _____day of _____, A.D. 20____.

ATTEST:

_____ _____
(Principal) Secretary Principal - Contractor

(Corporate Seal) BY:_____

_____ Title: _____
Witness as to Principal

Address: _____ Address: _____

_____ _____

ATTEST:

_____
Surety

_____
(Surety) Secretary

BY: _____
(Surety Seal) Attorney-in-Fact

_____ Address: _____
Witness to Surety

Address: _____ _____

_____

*If Contractor is Partnership, all partners should execute bond. Use extra pages if necessary.

Form 09/22/2016

SAMPLE

Bond No._____

PAYMENT BOND

Required by City of Waco where contract is over $50,000

THE STATE OF TEXAS
COUNTY OF McLENNAN

KNOW ALL MEN BY THESE PRESENTS: That we (1)_____ , (2) a _____ , of (3)_____ , hereinafter called Principal and (4) _____ , of _____, State _____, which is duly authorized to do business in the State of Texas and is hereinafter called Surety, are held and firmly bound unto THE CITY OF WACO of McLENNAN COUNTY, TEXAS , and unto all persons, firms, and corporations, who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the amount of _____**/100th Dollars ($)** in lawful money of the United States, to be paid in McLENNAN COUNTY, TEXAS , for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with (5)THE CITY OF WACO dated the (5) _____ day of_____, A.D., 20___, a copy of which is hereto attached and made a part hereof for _____, (herein called the "Work").

(1) Correct name of Contractor
(2) A Corporation, a Partnership, Limited Liability Company or an Individual, whatever the business entity form
(3) City and state of contractor's office
(4) Correct name of Surety along with city and state
(5) Leave dates blank. City will fill in with date of City Council action.

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall promptly make payment to all payment bond beneficiaries as defined in Chapter 2253 of the Texas Government Code, supplying labor and materials in the prosecution of the work provided for in said Contract, then this obligation shall be null and void; otherwise the obligation shall remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed under the Contract, with or without notice to Surety, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed under the Contract.

The Surety agrees to pay the City of Waco upon demand all loss and expense, including attorney's fees and court costs, incurred by the City of Waco by reason of or on account of any breach of this obligation by the Surety.

SAMPLE

This bond is made for and entered into solely for the protection of all payment bond beneficiaries supplying labor and materials in the prosecution of the work provided for in said contract, and all such payment bond beneficiaries shall have a direct right of action under the bond as provided in Chapter 2253 of the Texas Government Code.

PROVIDED FURTHER, that no final settlement between the City of Waco and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

Surety's telephone number is (_____) _____. Any notice of claim shall be sent to Surety at:

Mailing address: _____

Address of surety company: _____

IN WITNESS WHEREOF, this instrument is executed, this the _____ day of _____, A.D. 20____.

ATTEST:

_____ _____

(Principal) Secretary Principal - Contractor

(Corporate Seal) BY: _____

_____ Title: _____

Witness as to Principal

Address: _____ Address: _____

_____ _____

ATTEST:

_____

_____ Surety

(Surety) Secretary

BY: _____

(Surety Seal) Attorney-in-Fact

_____ Address: _____

Witness to Surety

Address: _____ _____

_____

*If Contractor is Partnership, all partners should execute bond. Use extra pages if necessary.

Form 09/22/2016

SAMPLE

APPENDIX C
Forms to Sign and Return

(1) Submission of Bid/Proposal and Acknowledgment of Addenda
(2) Business Identification Form
(3) Conflict of Interest Questionnaire (CIQ form)
(4) Disclosure of Relationships with City Council/Officers (City Charter)
(5) HUB Certificiation
(6) Litigation Disclosure
(7) Certification Regarding Debarment
(8) Non-collusion Affidavit
(9) Texas Public Information Act
(10) Drug Free Workplace

Submission of Bid/Proposal and Acknowledgment of Addenda

RFB No. 2026-062 Issued by City of Waco, Texas

The entity identified below hereby submits its response to the above identified RFB. The entity affirms that it has examined and is familiar with all of the documents related to RFB.

DECLARATION OF INTENT

I attest that the bid submitted is: (check one box below)

☐ 1. to the exact Specifications and the Terms and Conditions of the bid documents.

☐ 2. to the exact specifications with modifications to the Specifications and/or the Terms and Conditions as noted in the attached documentation.

or

☐ 3. NOT to the exact Specifications and/or the Terms and Conditions and is therefore an alternate bid, submitted for the City's consideration, with attached justification(s) and documentation defending the alternate bid as meeting or exceeding the intent of the specifications or scope of work.

Submitter further acknowledges receipt of the following addenda:

Addendum No _____ issued _____

Addendum No _____ issued _____

Addendum No _____ issued _____

Addendum No _____ issued _____

Addendum No _____ issued _____

Addendum No _____ issued _____

Date : _____

Proposal of (entity name) _____

Signature of Person Authorized to Sign Submission: _____

Signor's Name and Title (print or type): _____

PLEASE SIGN AND RETURN WITH BID

BUSINESS ENTITY IDENTIFICATION

Prior to completing this form, please verify that your business entity is registered with the Texas Secretary of State.

To identify the appropriate person to execute documents, please fill in this form:

Full Legal Name of Business Entity: _____

Doing Business As (assumed name): _____

Main Contact Person: _____

Registered Office Address: _____

Mailing Address: _____

Business Phone #: _____ Fax #: _____

Email Address: _____

UEI Number: _____

Check the appropriate box to designate the type of business entity & complete the information below.

Is entity:

☐ Sole Proprietorship ☐ Corporation ☐ Professional Corporation

☐ General Partnership ☐ Limited Partnership ☐ Limited Liability Partnership

☐ Limited Liability Company ☐ Professional Limited Liability Company

☐ Other _____

Date Business Started: _____ State Where Started: _____

If the entity was formed in another state, registration with the Texas Secretary of State may be required before transacting business in Texas. See http://www.sos.state.tx.us/corp/foreignoutofstate.shtml

Publicly traded company ☐ No ☐ Yes – where traded: _____

Depending on the type of business entity, the business will have owners, corporate officers, corporate directors, partners, managers, members, etc. Complete the information below.

To provide information on more than one person or entity for boxes 1 to 5, please use back of page, blank page, or another copy of this form.

1	Name of Primary Officer, Partner, Owner, Manager, Member, Director	
2	Position or title with business entity	
3	Address *(if different from above)*	
4	Who is authorized to execute contracts and other documents?	
5	What is the title or position of the person listed in #4?	
6	Please provide a document (resolution, bylaw, agreement, etc.) that states the person identified in #4 has authority to execute contracts or execute affidavit.	

In signing this form, I acknowledge that I have read the above and state that the information contained therein is true and correct.

Signature: _____ Date: _____

Print Name: _____ Print Title: _____

ESTABLISHING AUTHORITY TO EXECUTE CONTRACT

When an instrument is signed on behalf of a business entity, documentation must be submitted that states the person signing on behalf of the business entity has the authority to do so. That documentation may be in the form of a resolution approved by a corporate board of directors, charter provisions, by-laws, partnership agreement, etc.

If a business entity has a document authorizing one or more individuals to enter into contracts or execute any instrument in the name of the business entity that it may deem necessary for carrying on the business of the entity, a certified copy of that document may be submitted.

If the business has a document stating who can execute documents for the business (such as a corporate resolution, charter provision, corporate bylaw, etc), the certification below may be signed and that document attached to this page.

CERTIFICATION REGARDING ATTACHED DOCUMENT

I, the undersigned person, as the *{title}* _____ of *{business entity}* _____ , certify that the attached document authorizes *[name of person]* _____ to execute contracts and other documents on behalf of said business entity and said document has not been revoked, altered, or amended and is still in full force and effect.

SIGNED this _____ day of _____, 20_____

_____
(Signature)

_____
Print Name

Attach document to this form

If a corporation does not have a document authorizing someone to execute contracts on behalf of the corporation, this resolution form may be used to establish that authority.

RESOLUTION FOR CORPORATION

BE IT RESOLVED by the Board of Directors of _____

_____ that
(Name of Corporation)

_____ is hereby authorized to execute a contract
(Name)

with the City of Waco to complete/construct_____

_____ .
(Name of Project, Project No.)

_____, Secretary, is authorized to attest the

signature binding the corporation.

_____
Corporate Name

(Corporate Seal) By:_____

Title: _____

ATTEST:

_____
Secretary of Corporation

CERTIFICATION

I,_____, certify that the above resolution
(Secretary of Corporation)

was adopted by the Board of Directors of _____
(Corporation)

at a meeting on the_____day of_____, 20_.

_____
(Signature of Secretary)

_____
(Print Name of Secretary)

_____
(Email Address)

_

If business entity has no document declaring who has authority to execute a contract on behalf of a business entity, this affidavit must be completed.

AFFIDAVIT OF AUTHORITY TO SIGN FOR COMPANY, CORPORATION, OR PARTNERSHIP

Name of Business Entity: _____

Which is: ☐ Corporation ☐ Professional Corporation ☐ General Partnership
☐ Limited Partnership ☐ Limited Liability Partnership ☐ Limited Liability Company
☐ Professional Limited Liability Company

On behalf of the above named business entity, I, the undersigned, certify and affirm that the following named person has authority to execute contracts and other documents on behalf of said business entity:

Name: _____

Title: _____

I declare under penalty of perjury that the above is true and correct.

_____
Signature

_____
Print Name

_____
Print Title

STATE OF _____

COUNTY OF _____

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, A.D., 20____.

(seal)

_____
Notary Public

My Commission Expires:

_____

INSTRUCTIONS FOR CONFLICTS OF INTEREST QUESTIONNAIRE [Form CIQ]

Chapter 176 of the Texas Local Government Code requires vendors who wish to conduct business or be considered for business with a city to file a "conflict of interest questionnaire." The Texas Ethics Commission (TEC) created the conflict of interest questionnaire (Form CIQ).

Who must complete and filed CIQ form?
Every vendor doing business with the City or seeking to do business with the City must complete Box 1 and sign and date in Box 7. Whether or not a conflict exists determines the other information to include on the form.

Who is a vendor?
The term "vendor" includes a partnership, corporation or other legal entities, including those performing professional services. Partnerships or corporations act through individuals, but it is the partnership or corporation that is doing business with or seeking to do business with the City. If the vendor seeking to do business with the City is a sole proprietorship, then just the name of the person who is the vendor is needed.

What triggers the requirement to file the Form CIQ?
When a vendor (or an agent of the vendor) begins (1) contract discussions or negotiations with the city or (2) submits an application, quote, response to request for proposals or bids, or anything else that could result in an agreement (contract or purchase order) with the City, Form CIQ must be completed. Whether the vendor initiates the discussion or the City initiates the discussions, Form CIQ must be completed. The monetary amount or value of the contract/purchase does not matter. The contract or purchase may involve the sale or purchase of property, goods, or services with the City of Waco

When does a conflict requiring disclosure exist? What has to be revealed?

- A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with the City of Waco and the vendor:

  (1) has an employment or other business relationship with an officer of the City of Waco, or a family member of an officer, that results in taxable income exceeding **$2,500** during the 12 month period preceding the date a contract/purchase is executed or a contract/purchase is being considered; or
  (2) has given an officer of the City of Waco, or a family member of an officer, one or more gifts with the aggregate value of more than **$100** in the 12 month period preceding the date a contract/purchase is executed or a contract/purchase is being considered
  (3) has a family relationship with an officer of the City of Waco.

What family relationships create a conflict?
A "family member" is a person related to another person within the first degree by consanguinity (blood) or affinity (marriage), as described by Subchapter B, Chapter 573, Texas Government Code. The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.
"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Texas Government Code.

Who are officers of the City of Waco?
Officers are the members of the Waco City Council, the City Manager, and any agent or employee who exercises discretion in the planning, recommending, selecting, or contracting with a vendor. An agent may include engineers and architects, as well as others, who assist the City is making a decision on some contract or purchase.

When must a vendor file the conflict of interest questionnaire?
No later than seven days after the date the vendor: (a) begins contract discussions or negotiations with the city, or (b) submits an application or response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with a city, or (c) becomes aware of an employment or other business relationship with an officer or family member of the officer that the vendor (i) has made one or more gifts of more than $100 or (ii) has a family relationship with.

How do I go about filling out the Conflict of Interest Questionnaire form?

Section 1: Fill in the full name of the **person or company** who is trying to do business with the City. If the "person" is a corporation, partnership, etc., then it is the name of that corporation, partnership, etc., that is required on Form CIQ. If a sole proprietorship, then just the name of the individual is needed. If the "person" is an individual acting as an agent for some other person or a company, then it is the agent's name. **Any time an agent is involved, two FORM CIQs must be completed and submitted**: one for the agent, and one for the person or company that the agent acted for. The agent's FORM CIQ must note the vendor that the agent acted for.

Section 2: Check box if the form is an update to a form previously completed. Updates are required by the 7th business day after an event that makes a statement in a previously filed questionnaire incomplete or inaccurate. Updates are also required by September 1 of each year in which the person submits a proposal, bid or response to the City of Waco or begins contract discussions or negotiations with the City.

Section 3: Insert the name of the City of Waco officer with whom there is an affiliation to or business relationship. If there is more than one City officer with whom there is an affiliation or business relationship, a separate form should be completed for each officer.

Section 4: Check the "Yes" or "No" box in Section 4 A or B.

4.A: State whether the officer named on the form receives or is likely to receive taxable income, other than investment income, from the vendor filing the questionnaire.

4.B: State whether the vendor receives or is likely to receive taxable income, other than investment income, from or at the direction of the officer named on the form AND the taxable income is not received from the City.

Section 5: Describe each employment or business relationship with the local government officer named on the form.

Section 6: Check box to acknowledge gifts made that require disclosure.

Section 7. Person completing form must date and sign the form. If the form is being completed for a corporation, partnerships, etc., the person signing should be someone who is authorized to act on behalf of the corporation, partnership, etc.

A signature is required in box #4 regardless of any other entry on the form. A copy of Chapter 176 of the Texas Local Government Code can be found at:

http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.176.htm

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

This includes the vendor name even if a conflict does not exist

1 **Name of vendor who has a business relationship with local governmental entity.**

Insert name of vendor seeking to do business with the City of Waco

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

Insert name of officer with whom there is business, employment or family relationship. If no conflict, insert N/A.

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

Complete A-B if a conflict exist

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

Identify and describe the relationship, if applicable

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature required -- so sign and date, even if no conflict

Signature of vendor doing business with the governmental entity _____ Date _____

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

DISCLOSURE OF RELATIONS WITH CITY COUNCIL MEMBER, OFFICER, OR EMPLOYEE OF CITY OF WACO

Failure to fully and truthfully disclose the information required by this form may result in the termination of any business the City is now doing with the entity listed below and/or could impact future dealings.

1. **Name of Entity/Business/Person doing business with City**: _____

Is the above entity: (**Check one**)

☐ A corporation ☐ A partnership ☐ A sole proprietorship or an individual

☐ Other (specify): _____

Check all applicable boxes.

2. **Is any person involved as an owner, principal, or manager of name listed in #1 related to or financially dependent on Council member, officer, or employee of the City of Waco?**

☐ NO -- there is no such relationship between Entity/Business/Person and the City of Waco.

☐ **YES, a person who is a/an** ☐ owner, ☐ principal, or ☐ manager of this entity/business/person

is: **(Check all applicable boxes below)**

☐ related to by blood or marriage* and/or ☐ a member of the same household as

and/or ☐ financially dependent upon** and/or ☐ financially supporting**

to a City of Waco ☐ City Council member, ☐ officer or ☐ employee.

* As used here, "related to" means a spouse, child or child's spouse, and parent or parent's spouse. It also includes a former spouse if a child of that marriage is living (the marriage is considered to continue as long as a child of that marriage lives).

** As used herein, "financially dependent upon" and "financially supporting" refers to situations in which monetary assistance—including for lodging, food, education, and debt payments—is provided by owner, principal or manger of #1 to Council member, officer or employee of City of Waco, or that Council member, officer or employee of City of Waco provides to owner, principal or manger of #1.

If **YES**, provide (a) the name of owner, principal, or manager, **and** (b) the name of the City Council member, officer or employee (include the department the City officer or employee works for, if known), **and** (c) if a relationship by marriage or by blood/kinship exists. (Use back of sheet if more space is needed)

(a) Name of owner, principal, or manager	(b) Name of Council member, officer or employee & department	(c) What is relationship or household arrangement

3. **Is a current City Council member or City employee involved with the name listed in #1 as an owner, principal, manager, or employee, or employed as a contractor for name listed in #1?**

☐ NO (no person involved/working for Entity/Business/Person is Council member, officer or employee of the City).

☐ **YES, a person is** **(Check all applicable boxes)**

(a) **a current City of Waco** ☐ City Council member, ☐ officer or ☐ employee,

(b) **and is** ☐ an owner, ☐ a principal, or ☐ a manager of the entity/business/person listed in #1,

or ☐ an employee or ☐ an independent contractor of the entity/business/person listed in #1.

If YES, provide the name of owner, principal, manager, employee or independent contractor who is a City Council member, officer or employee. Include the department the City officer or employee works for, if known.

_____

_____

Signature:_____ Phone #:_____ Date: _____

Print Name:_____ Print Title: _____

CITY OF WACO
PURCHASING
HUB BUSINESS CERTIFICATION

The City of Waco is committed to assuring that all businesses are given prompt, courteous, and equal opportunity to provide goods and services to the City. To achieve this goal, the City Council requests the Historically Underutilized Business status of each vendor on the City vendor list.

Definition: A Historically Underutilized Business means a business concern owned and controlled by socially and economically disadvantaged individuals. This means any business concern that (a) is at least 51% owned by one or more socially and economically disadvantaged individuals; or in the case of publicly owned businesses, at least 51% of the stock which is owned by one or more socially or economically disadvantaged individuals; and (b) whose management and daily operations are controlled by one or more other socially and economically disadvantaged individuals who own it. Those included in this program as socially and economically disadvantaged individuals are Service-Disabled Veterans.

Bidder Certification: Bidder declares a Service-Disabled Veteran owned business status:

☐ **YES** ☐ **NO**

HUB Certified: ☐ **YES** ☐ **NO**

COMPANY NAME:_____

AUTHORIZED SIGNATURE: _____

TITLE:_____

DATE:_____

CITY OF WACO

LITIGATION DISCLOSURE

Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your bid/proposal/qualifications from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

☐ Yes ☐ No

2. Have you or any member of your Firm or Team been terminated (for cause or otherwise) from any work being performed for the City of Waco or any other Federal, State or Local Government, or Private Entity?

☐ Yes ☐ No

3. Have you or any member of your Firm or Team been involved in any claim or litigation with the City of Waco or any other Federal, State or Local Government, or a Private Entity during the last ten (10) years?

☐ Yes ☐ No

If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your bid/proposal/qualifications.

INSTRUCTIONS FOR CERTIFICATION REGARDING

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion

1. By signing and submitting this proposal and the certification form, the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) is providing the certification set out on the following form (or reverse side) in accordance with these instructions.

2. The certifications in this clause are a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant (BIDDER/PROPOSER/ SUBRECIPENT) knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) shall provide immediate written notice to the person to whom this bid/proposal is submitted if at any time the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction, "without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the No procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CITY OF WACO

Purchasing Department
Post Office Box 2570
Waco, Texas
76702-2570 254 /
750-8060
Fax: 254 / 750-8063
www.waco-texas.com

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

Project Name: _____

Location: _____

RFB/RFP #: _____

This certification is required (or may be required) by the federal regulations implementing Executive Order 12549, Debarment and Suspension. The regulations were published as Part VII of the May 26, 1988, *Federal Register* (pages 19160-19211). For further assistance in obtaining a copy of the regulations, contact the City of Waco Purchasing Department.

READ INSTRUCTIONS BEFORE COMPLETING CERTIFICATION

(1) The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) certifies, by submission of this proposal that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State department or agency.

(2) Where the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPENT) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____
Company

_____
Name and Title of Authorized Representative

_____
Signature Date

NON-COLLUSION AFFIDAVIT

STATE OF TEXAS §

COUNTY OF_____§

By the signature below, the signatory for the bidder certifies that neither he nor the firm, corporation, partnership or institution represented by the signatory or anyone acting for the firm bidding this project has violated the antitrust laws of this State, codified at Section 15.01, *et seq.*, Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in the same line of business, nor has the signatory or anyone acting for the firm, corporation or institution submitting a bid committed any other act of collusion related to the development and submission of this bid proposal.

Signature: _____

Printed Name: _____

Title: _____

Company: _____

Date: _____

THE STATE OF _____

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____ _____ (the person who signed above), known to me to be the persons whose names are subscribed to the foregoing instruments, and acknowledged to me that they executed same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this_____day of _____ A.D., 20___.

(Seal)

_____
Notary Public Signature

TEXAS PUBLIC INFORMATION ACT
Steps To Assert Information Confidential or Proprietary

All proposals, data, and information submitted to the City of Waco are subject to release under the Texas Public Information Act ("Act") unless exempt from release under the Act. You are not encouraged to submit data and/or information that you consider to be confidential or proprietary unless it is absolutely required to understand and evaluate your submission.

On each page where confidential or proprietary information appears, you must label the confidential or proprietary information. Do not label every page of your submission as confidential as there are pages (such as the certification forms and bid sheet with pricing) that are not confidential. It is recommended that each page that contains either confidential or proprietary information be printed on colored paper (such as yellow or pink paper). At a minimum the pages where the confidential information appears should be labeled and the information you consider confidential or proprietary clearly marked.

Failure to label the actual pages on which information considered confidential appears will be considered as a waiver of confidential or proprietary rights in the information.

In the event a request for public information is filed with the City which involves your submission, you will be notified by the City of the request so that you have an opportunity to present your reasons for claims of confidentiality to the Texas Attorney General.

In signing this form, I acknowledge that I have read the above and further state:

☐ The proposal/bid submitted to the City **contains NO confidential information** and may be released to the public if required under the Texas Public Information Act.

☐ The proposal/bid submitted **contains confidential information** which is labeled and which may be found on the following pages: _____

_____

and any information contained on page numbers not listed above may be released to the public if required under the Texas Public Information Act.

Vendor/Proposer _____

Submitting: Signature: _____ Date: _____

Print Name: _____ Print Title: _____

PLEASE SIGN AND RETURN WITH PROPOSAL/BID

DRUG-FREE WORKPLACE ACT CERTIFICATION

1. Contractor certifies that he/she will provide a drug-free workplace by:
   (a) publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in Contractor's workplace is prohibited and specifying the actions that will be taken against employees for violation of such prohibition;
   (b) establishing a drug-free awareness program to inform employees about:
      (1) the dangers of drug abuse in the workplace;
      (2) Contractor's policy of maintaining a drug-free workplace;
      (3) any drug counseling, rehabilitation, and employee assistance programs that are available; and
      (4) penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
   (c) making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a);
   (d) notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
      (1) abide by the terms of the statement; and
      (2) notify City of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction;
   (e) notifying City within ten (10) days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
   (f) taking one of the following actions within thirty (30) days of receiving notice under subparagraph (d)(2) with respect to any employee so convicted:
      (1) taking appropriate personnel action against such an employee, up to and including termination; or
      (2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
   (g) making a good faith effort to continue to maintain a drug-free workplace through implementation of the above paragraphs.

2. Contractor's headquarters is located at the following address. The addresses of all other workplaces maintained by Contractor, if any, are provided on an accompanying list.

Name of Contractor: _____

Street Address: _____

City: _____

County: _____

State: _____ Zip Code: _____

SIGNED BY: Print _____

Name & Title: Date _____

Signed: _____

APPENDIX D

City of Waco Specifications

In addition to the attached Specification and/or Drawings, the **"City of Waco Standard Specifications for Construction"** dated January 2013, as revised by Special Provisions listed on the City of Waco website at https://www.waco-texas.com/Departments/Public-Works/Engineering/Specifications-and-Details ("City of Waco Standard Specifications"), is incorporated herein by reference for all intents and purposes. If a standard specified in the City of Waco Standard Specifications conflicts with a standard included within an attached specification and/or drawing, the attached specification and/or drawing controls. If the standard is unclear, the Director of Public Works for the City of Waco will determine which standard controls and his determination shall be final.

A copy of City of Waco Standard Specifications and the City of Waco Standard Details may be obtained by contacting the Public Works Department for the City of Waco at 254-750-5440 or by accessing the City of Waco website at https://www.waco-texas.com/Departments/Public-Works/Engineering/Specifications-and-Details.

Appendix E
Special Project Provisions

Special Project Provisions

1. GENERAL

1.1. **Project Specifications** – In addition to the project's Special Project Provisions and the instructions provided in the drawings, the following specifications shall be followed as noted:

1.1.1. **City of Waco Standard Specifications for Construction (2013) and City of Waco Standard Details (April 28, 2025):** The *City of Waco Standard Specifications for Construction* (2013) and the *City of Waco Standard Details* (April 28, 2025) are incorporated herein by reference for all intents and purposes. If a standard specified in the *City of Waco Standard Specifications* and/or *City of Waco Standard Details* conflicts with a standard included within the project's Special Project Provisions and/or drawings, the project's Special Project Provisions and/or drawings control. If the standard is unclear, the City Engineer for the City of Waco will determine which standard controls and their determination shall be final. Copies of the *City of Waco Standard Specifications for Construction,* the *Special Provisions to Standard Specifications for Construction* and the *City of Waco Standard Details* may be obtained by accessing the City of Waco's website (https://www.waco-texas.com/Departments/Public-Works/Engineering/Specifications-Manuals-and-Regulations) and (https://www.waco-texas.com/Departments/Public-Works/Engineering/Standard-Details-Listing).

1.1.2. **Texas Department of Transportation Specifications and Special Provisions:** Portions of this project require the Contractor to follow *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the Texas Department of Transportation (September 1, 2024). A copy of these specifications may be found on the Texas Department of Transportation's (TxDOT) website: 2024 Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (txdot.gov).
Any TxDOT Special Provisions to Specifications and Special Specifications referenced in this project and published on their website: (http://www.dot.state.tx.us/apps-cg/specs/toc.asp?year=4&type=SP&list=sd) shall be followed.

1.1.3. **TxDOT Standard Plans and Details:** The Contractor shall follow the TxDOT standard plans and details provided in the drawings.

1.1.4. **TxDOT Waco District General Notes:** For TxDOT Standard Specification and Special Provision Items utilized on this project, the Contractor shall follow the General Notes utilized by TxDOT's Waco District.

1.2. The General Contractor shall **self-perform at least 30%** of this project.

The term "self-perform" shall refer to workers employed by the General Contractor, and equipment owned or rented by the General Contractor. Such term does not include employees or equipment of a subcontractor, agents of the General Contractor, or any other assignees.

1.3. **Construction Surveying** - Construction staking shall be provided by the Contractor and is subsidiary to work. Refer to Special Provision GP 2 2.9-001 (2013).

1.4. **Site Restoration** - All areas (vegetated, gravel, paved, etc.) disturbed by the work of this contract must be restored to pre-project or better condition. Payment for this work will be subsidiary to completion of the associated work item unless otherwise provided. All existing vegetated areas must be restored to existing condition or better with topsoil and either seed or sod as appropriate. In yards, sod shall be utilized and shall match existing turf. In undeveloped areas, Contractor shall use seed or sod. Contractor is responsible for watering and all required care until project acceptance. This work will be considered subsidiary to the project, unless otherwise specified.

1.4.1. **Fertilizer rate** shall be 100 lbs per acre. See City of Waco Standard Specifications for Construction, Section 1.9 for additional requirements, which include both an Initial Planting Application and a Post Planting Application.

1.4.2. **Vegetative watering** – if using a City fire hydrant as the water source, Contractor shall pay the deposit fee, meter set fee, minimum monthly demand charge, fire hydrant meter monthly charge, and current water rates to the City. Contact the City's Water Utilities Department for a current fee schedule. Application rate shall be 10,000 GAL/ACRE PER APP DAY or approximately 3/8 IN. per APP DAY. The cost shall be subsidiary to the installation of topsoil and solid block sod.

1.5. **Protection of Facilities in Right of Way** - The Contractor shall be responsible for adequately protecting all facilities (mailboxes, trees, bushes, sprinkler/irrigation systems, sidewalks, handicap ramps, etc.) not designated for removal. Any facilities that sustain damage shall be restored to existing or better condition, and the cost of the restoration shall be subsidiary to the work.

1.6. **Underground Utilities** - The attention of the Bidder is drawn to requirements in State law regarding location of underground utilities prior to excavation and the reporting of damage to any gas line. The utilities and structures shown on the plans are intended to show the general existence and location of utilities and structures in the area of construction. The Contractor shall verify all depths and locations of existing utilities prior to any construction. Any discrepancies with the construction plans found in the field shall be brought immediately to the attention of the City of Waco project inspector. The Contractor is liable for all damages when utilities are damaged due to the Contractor's negligence, including, but not limited to, repair or replacement at the Contractor's expense.

1.7. **Above Ground Utilities** - The Contractor is responsible for coordinating with the appropriate utilities owning any poles or signs that may be impacted during the work of this contract. Bracing and protective measures per the requirements of the signs' owners shall be provided by the Contractor and shall be considered subsidiary to the work.

1.8. If the Contractor chooses to utilize a private lot(s) as a staging area, the Contractor shall provide the City with written permission from the property owner(s). The project shall not be finalized until the Contractor provides a written letter from the property owner(s) saying that the property owner is satisfied with the said lot(s) once the Contractor demobilizes.

1.9. Material on hand shall not be considered for payment.

1.10. All earthwork (cut and fill) required for the work of this contract, unless otherwise specified, is subsidiary to payment for the various bid items.

1.11. The Contractor shall coordinate all work with schools affected by the construction at the beginning of construction and maintain communication until final acceptance of the roadway. Coordination will be required if any bus routes (Waco ISD, Midway ISD, China Spring ISD, Waco Transit, or other) are affected or there is a school within one block of construction.

1.12. The Contractor shall coordinate all work with the City's Waste Management Division to avoid interruption of service on trash pickup days. Contact information is provided in the plans.

1.13. **Projectmates**

1.13.1. The City has set up an Internet-based project management system called Projectmates for managing design and construction projects. The Contractor will be required to utilize Projectmates as follows:

1.13.2. Contract management related processes including RFIs, submittals, field reports, meeting minutes, change orders, pay application, punch lists, and close-out documents shall be submitted, tracked, and responded to, by the Contractor, City, and Project Engineer through Projectmates over the Internet. Paper copies shall not be accepted unless specifically requested.

1.13.3. The City of Waco Projectmates software portal is:

https://cityofwaco.projectmates.com

1.13.4. One (1) Projectmates user license will be provided to the Contractor by the City without charge. The City will recover the license upon project completion.

1.13.5. The Contractor shall be familiar with Projectmates prior to the pre-construction meeting. Training can be arranged by contacting software vendor Systemates Inc. Training expenses shall be borne by the Contractor. Contact Systemates, Inc., Richardson, Texas 214-217-4100 or email info@systemates.com.

1.13.6. See "Submittals" section for detailed instructions regarding submittals.

1.14. **Right of Way Clearing and Cleanup**

1.14.1. **Right of Way Clearing:** The Contractor shall be responsible for clearing the right of way of trees, shrubs, and other vegetative growth as needed for equipment clearance, construction of street components, and any other work required for this Project, prior to beginning construction, and in areas specifically identified on the drawings. Any cut limbs shall be sealed with Spectracide Pruning Seal or approved equal. This work shall be subsidiary to all pay items unless otherwise noted on the drawings.

1.14.2. **Right of Way Cleanup:** At the end of the project and prior to requesting the punch list, the Contractor shall cleanup the right of way from the edge of pavement to the approximate right-of-way on each side of the street (including portions of intersecting streets on which work was performed). The approximate right of way is shown on the plans (via parcel boundaries); however, the Contractor and Engineering Inspector (EI) shall coordinate the extents of the work during construction. The purpose of the right of way cleanup is to leave the entire right of way clear of trash, debris, overgrown vegetation, and vegetative growth in the curb and gutter. Cleanup activities shall include, but not be limited to the following:

- Remove all trash and debris

- Remove all downed trees, tree limbs, and brush piles
- Mow grass/vegetation to 3-inch height
- Edge grass at back of curb, pavement, sidewalk, and curb ramps
- Remove vegetation from curb and gutter, sidewalk, and curb ramps by mechanical means or other methods approved by the Project Engineer
- Remove BMP's (inlet protection, etc. add other BMP's utilized)

This work shall be subsidiary to all pay items unless otherwise noted on the drawings.

1.15. **Testing** – The Contractor must request material testing and inspections forty-eight (48) hours in advance through the Project CI. Availability of the testing company may dictate final testing date. The Owner will be financially responsible for testing that:

1.15.1. Confirms installed material or work was done in accordance with the technical specifications and/or construction documents.

1.15.2. During testing of water lines, filling of lines will occur from a fire hydrant. The lines to be tested must maintain a physical separation from the existing lines until all test results are passing.

1.15.3. Duplicate testing as directed by the Owner

1.15.4. Any special testing as directed by the Owner

1.15.5. The Contractor will be financially responsible for testing costs for the following conditions:

1.15.5.1. Testing that finds installed material or work was **NOT** done in accordance with the technical specifications and/or construction documents.

1.15.5.2. Early or non-standard testing as requested by the Contractor.

1.15.5.3. Any charges incurred due to the project or item of work not being ready for testing when the laboratory arrives onsite.

1.15.5.4. Any charges incurred due to cancellation of the testing as requested by the Contractor.

1.15.5.5. All water charges associated with Hydrostatic Testing of the waterline.

For any costs for which the Contractor will be financially responsible, the Contractor will be required to set up an account with the material testing company and will pay said company directly. The Project CI will direct the material testing company on which entity is responsible for material testing costs.

1.16. **Technical Specifications & Details** referenced on the Bid Proposal are provided to the Contractor for their use. These may not be complete and other details and/or specifications may apply to the Construction Process for an individual pay item. The Contractor shall be responsible for following all applicable technical specifications and details.

1.17. **Additional Bid Items-** The contractor is required to supply a unit price for several bid items which may be required during the project. The scope of work for the improvements is unknown at the time of bidding. Please find a summary of work associated with each bid item below:

1.17.1. **Replacement of Existing Sanitary Sewer (4"-8") with 8" SDR-26 PVC, depth ≤ 10'.**

- Measurement

  Measurement of Replacement of Existing Sanitary Sewer (4"-8") with 8" SDR-26 PVC, depth ≤ 10' as directed by the City of Waco shall be measured by the linear foot along the centerline of the pipe, to a maximum depth up to and including ten feet (10').

- Payment

  The City of Waco shall supply the following materials for use by the Contractor:

  - 8" SDR-26 PVC Sanitary Sewer Pipe
  - Sanitary Sewer Service Fitting

  The Contractor will be responsible for providing all other materials, including but not limited to embedment and backfill.

  Payment for this item shall be made at the unit price bid per linear foot, as specified. This unit price shall constitute full compensation for all excavation, embedment, installation of wastewater line, backfill, trench safety plan, trench safety implementation, traffic control plan and implementation, plugging and unplugging of existing manholes, installation of sewer service fittings, reconnection of existing services, surface replacement, bypass pumping, and all labor, unsupplied materials, equipment, and all incidentals necessary to complete the work as specified.

1.17.2. **Replacement of Existing Sanitary Sewer (4"- 8") with 8" SDR-26 PVC, depth > 10'.**

- Measurement

  Measurement of Replacement of Existing Sanitary Sewer (4"-8") with 8" SDR-26 PVC, depth > 10' as directed by the City of Waco shall be measured by the linear foot along the centerline of the pipe, to depth greater than ten feet (10').

- Payment

  The City of Waco shall supply the following materials for use by the Contractor:

  - 8" SDR-26 PVC Sanitary Sewer Pipe
  - Sanitary Sewer Service Fitting

  The Contractor will be responsible for providing all other materials, including but not limited to embedment and backfill.

  Payment for this item shall be made at the unit price bid per linear foot, as specified. This unit price shall constitute full compensation for all excavation, embedment, installation of wastewater line, backfill, trench safety plan, trench safety implementation, traffic control plan and implementation, plugging and unplugging of existing manholes, installation of sewer service fittings, reconnection of existing services, surface replacement, bypass pumping, and all

labor, unsupplied materials, equipment, and all incidentals necessary to complete the work as specified.

1.17.3. **Replacement of Existing Sanitary Sewer (10"- 15") with SDR-26 PVC (All Sizes), depths ≤ 10'.**

- Measurement

  Measurement of Replacement of Existing Sanitary Sewer (10"-15") with SDR-26 PVC (All Sizes), depth ≤ 10' as directed by the City of Waco shall be measured by the linear foot along the centerline of the pipe, to a maximum depth up to and including ten feet (10').

- Payment

  The City of Waco shall supply the following materials for use by the Contractor:

  - SDR-26 PVC Sanitary Sewer Pipe (various sizes)
  - Sanitary Sewer Service Fitting

  The Contractor will be responsible for providing all other materials, including but not limited to embedment and backfill.

  Payment for this item shall be made at the unit price bid per linear foot, as specified. This unit price shall constitute full compensation for all excavation, embedment, installation of wastewater line, backfill, trench safety plan, trench safety implementation, traffic control plan and implementation, plugging and unplugging of existing manholes, installation of sewer service fittings, reconnection of existing services, surface replacement, bypass pumping, and all labor, unsupplied materials, equipment, and all incidentals necessary to complete the work as specified.

1.17.4. **Replacement of Existing Sanitary Sewer (10"- 15") with SDR-26 PVC (All Sizes), depth > 10'.**

- Measurement

  Measurement of Replacement of Existing Sanitary Sewer (10"-15") with SDR-26 PVC (All Sizes), depth > 10' as directed by the City of Waco shall be measured by the linear foot along the centerline of the pipe, to depth greater than ten feet (10').

- Payment

  The City of Waco shall supply the following materials for use by the Contractor:

  - SDR-26 PVC Sanitary Sewer Pipe (various sizes)
  - Sanitary Sewer Service Fitting

  The Contractor will be responsible for providing all other materials, including but not limited to embedment and backfill.

Payment for this item shall be made at the unit price bid per linear foot, as specified. This unit price shall constitute full compensation for all excavation, embedment, installation of wastewater line, backfill, trench safety plan, trench safety implementation, traffic control plan and implementation, plugging and unplugging of existing manholes, installation of sewer service fittings, reconnection of existing services, surface replacement, bypass pumping, and all labor, unsupplied materials, equipment, and all incidentals necessary to complete the work as specified.

1.17.5. **Replacement of Existing Storm Drain (All Sizes) (All Depths).**

- Measurement

  Measurement of Replacement of Existing Storm Drain (All Sizes) (All Depths) as directed by the City of Waco shall be measured by the linear foot along the centerline of the pipe.

- Payment

  The City of Waco shall supply the following materials for use by the Contractor:

  - Reinforced Concrete Pipe (Various Sizes)

  The Contractor will be responsible for providing all other materials, including but not limited to embedment and backfill.

  Payment for this item shall be made at the unit price bid per linear foot, as specified. This unit price shall constitute full compensation for all excavation, embedment, installation of storm drain, backfill, trench safety plan, trench safety implementation, traffic control plan and implementation, surface replacement, and all labor, unsupplied materials, equipment, and all incidentals necessary to complete the work as specified.

1.18.1 The City reserves the right to eliminate streets and add others to this contract. The Contractor is not entitled to and adjustment in the unit prices due to a modification of the scope.

2. CHANGE MANAGEMENT

2.1. See Section 4 in the General Provisions of the City of Waco Standard Specifications for Construction.

3. COMMUNICATION

3.1. Contractor shall contact the Engineering Inspector (EI) a minimum of seventy-two (72) hours and a maximum of ninety-six (96) hours prior to beginning (or recommencing after a hiatus) work; and notify the EI immediately upon any change in schedule.

3.2. All homeowners and businesses affected by the construction shall be notified by the Contractor a minimum of seventy-two (72) hours and a maximum of ninety-six (96) hours in advance of any street/construction work. See **Attachment "A"** in the plans for a flier example. Should the work not occur on the specified day, new notification will be distributed when required. The notification shall be in the form of a written posting, with the contractor's representative's local cellular telephone number and stating the time and date the work will take place. Flier shall be submitted for approval prior to distribution.

3.3. **Portable Changeable Message Signs** – The Contractor shall provide two portable changeable message signs at each work location in accordance with TxDOT Item 503, which shall be used for the duration of the Project. A work location is generally defined as a neighborhood, section of neighborhood, or individual street (collectors and arterials). The signs shall be placed at the beginning and end of the neighborhood or street seven (7) days before construction or any major traffic pattern changes/shifts. **This shall be subsidiary to the traffic control plan and implementation.**

3.4. **The Contractor shall coordinate all work with the following**:

3.4.1. **Schools** affected by the construction at the beginning of construction and maintain communication until final acceptance of the roadway. Coordination will be required if any bus routes (Waco ISD, Midway ISD, China Spring ISD, Waco Transit, or other) are affected or there is a school within one block of construction.

3.4.2. **City of Waco's Waste Management Division** to avoid interruption of service on trash pickup days. Contact information is provided on the General Notes sheet.

4. HOUSEKEEPING

4.1. During the progress of the Work and on a daily basis, Contractor shall keep all the premises (including any staging areas) free from accumulation of all waste materials, rubbish and other debris resulting from the Work.

4.2. The Contractor shall remove all material stockpiles, equipment left overnight or any obstructions within thirty (30) feet of a travel way or clearly mark by warning lights and barricades.

4.3. At the completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery and surplus materials. Contractor shall leave the site clean and ready for the Owner prior to initiating project completion process (requesting punch list, etc.).

4.4. It shall be the responsibility of the Contractor to keep the roadway, drive approaches, and sidewalk clean of mud, sand, rock, and other debris.

4.5. If the Contractor fails to comply with these requirements, the Owner may do so and pass along all related costs to the Contractor.

4.6. For this project, Contractor shall furnish and operate a self-loading motor sweeper with spray nozzles at least once each working day for dust abatement and general cleaning. See the City's Standard Specification for Construction, GP 8.10 for more information.

5. SAFETY

5.1. **Temporary Traffic Control Plans (TCP)** – Refer to ***City of Waco Standard Detail T-1 Traffic Control Plans*** for TCP requirements.

5.2. **Confined Space –** If the completion of this contract requires working within a confined space, access to such a work area will only be allowed through compliance with a project specific program meeting applicable OSHA standards. The contractor shall review any hazards confronted during the confined space entry with the City's designated representative.

5.3. **Trench Safety –** If the completion of this contract requires working in excavations deep enough to dictate the use of trench safety protective measures. Access to any such excavations will only be allowed through compliance with a project specific program meeting applicable OSHA standards. The contractor shall submit the name and cell phone number of the Qualified Person in the submittal. The trench safety system shall be in accordance with OSHA standard governing the presence and activities of individuals working in and around trench excavation. The trench safety system must be designed and sealed by a professional engineering registered in the State of Texas with professional experience in Soil Mechanics.

5.4. **ALL road closures (partial or full) shall be communicated to Teresa Bryant** (teresab@wacotx.gov, 254-750-6613) in advance of the closure. Contractor shall include the street and limits, number of closed lanes, and start/end dates of closure.

6. EROSION CONTROL

6.1. In accordance with the City of Waco Code of Ordinances Chapter 26 Article VIII Division 1 Section 26-326 h and I, the Contractor shall prepare and submit an erosion control plan for review and approval as follows:

6.1.1. Upload designed erosion control plan to Projectmates AND email to the Watershed Protection Division at Stormwater@wacotx.gov .

6.1.2. Erosion control plan shall be approved and implemented prior to any construction activity.

6.1.3. Watershed Compliance Team may inspect erosion control devices throughout the duration of construction.

6.1.4. Contractor shall remove all erosion control devices once final stabilization is achieved.

6.1.5. Contractor shall be responsible for meeting any regulatory requirements across the entire project site.

6.2. Refer to General Notes sheet in plan set for additional requirements.

7. PERMITS – Not Used

8. SCHEDULE

8.1. **Contract Schedule**: The construction schedule for this project is set at **250 Calendar Days** beginning on the Notice to Proceed date and ending on the date of final acceptance. The Notice to Proceed will be issued after receipt of executed contracts and completion of the pre-construction meeting. A Calendar Day is defined as any day of the week; no days being excepted.

8.2. **Weather Days**: Delays caused by unforeseen events (i.e., weather) will entitle the Contractor to an extension of time as set forth in the City of Waco Standard Specifications for Construction, General Provisions, Section 7.5.A. An unforeseen event will result in a time extension (calendar day(s) added to the contract) if conditions exist such that the Contractor is not able to work for a continuous period of seven (7) hours or more between 7:00 a.m. and 6:00 p.m. Such time extensions shall be approved by the Engineering Inspector, listed on the monthly pay application, and finalized when the Contractor signs the current month's pay application. Time extensions will not be approved after the current month's pay application is submitted.

8.3. **Working Hours**: The working hours for this project are between 7:00 a.m. and 6:00 p.m. on Monday through Friday. Should the contractor wish to work outside of the normal working hours, they must submit a request of a minimum of 72 hours in advance for City Review. Work on Saturdays, Legal Holidays, and at night may be allowed and shall be coordinated with and approved by the City a minimum of 72 hours in advance. Work on Sundays shall not be permitted.

8.4. The project schedule includes time to:

8.4.1. Develop, submit, review, approve and implement the SW3P/erosion control plan;

8.4.2. Develop, submit, review, and approve safety and material submittals;

8.4.3. Attend all meetings including, but not limited to:

- Preconstruction
- Construction Progress
- Pre-Paving

8.4.4. Complete and commission the Work;

8.4.5. Complete the project closure activities and paperwork.

8.5. The Contractor shall maintain a work force adequate to accomplish the work within the contract time. The Contractor agrees to employ only orderly, competent, and knowledgeable workers, skillful in performance of the type of work required under this contract.

8.6. Contractor's representative (*City of Waco Standard Specifications for Construction, General Provisions, Section 8.7, page 58*) - "Before starting work, the Contractor shall designate in writing a representative who shall have complete authority to act for it. . . The representative or alternate shall be present at the Work site whenever work is in progress . . ."

8.7. The Contractor shall provide an approved baseline construction schedule within two weeks following the notice to proceed date. The schedule shall be in a Gantt, CPM, or PERT format suitable to depict the project work plan.

8.8. The Contractor shall also provide updated schedules as warranted by the progress of the work or as requested by Project Engineer or Representative. Each pay request shall be accompanied by an updated schedule.

8.9. Work in conflict with special events or ongoing utility work may be suspended, delayed, or redirected when determined by the City at no additional expense to the City.

8.10. **Overtime Costs –** Contractor shall be responsible for all City staff and third-party time, costs, expenses, and overtime for work performed on Saturdays, Sundays, or City holidays, unless excused in writing by the City prior to the work. City/Engineer will bill key personnel at the following rates. All other City/Engineering personnel will be billed at their current billing rates.

There will be an 8-hour minimum charge for Saturday, Sunday, or Holiday work. Cancellation is required by Friday 12:00 PM Noon in advance of Saturday, Sunday, or Holiday work or the 8-hour minimum charge will apply.

8.10.1.1. Field Representative/Observer $173.00/hr

8.10.1.2. Project Manager $305.00/hr

8.10.1.3. Project Engineer $174.00/hr

8.10.1.4. Project Administrator $94.50/hr

8.10.1.5. Payment shall be obtained from the retainage withheld by the City of Waco.

8.11. **Easements / Temporary Construction License**

8.11.1. As of the time of the bidding of the project, **(0) Zero** easements / TCLs have been obtained and two are in process.

8.11.2. The Engineer will provide the recorded easements as they become available.

8.11.3. For any property that requires an easement, the Contractor may not begin construction on said property until given written approval by the City of Waco.

8.11.4. At the pre-construction meeting, The City of Waco will notify the contractor of which easements have been acquired, and a construction sequencing & phasing plan will be discussed.

8.11.5. The Contractor must set and/or alter the construction sequencing, at no cost to Owner, based on easement availability throughout the project.

9. PROJECT COMPLETION

9.1. When Contractor completes all work or pay items, the Contractor shall submit a written request for a punch list. At the time it is agreed that the pay line items are completed, contract days will temporarily cease accruing.

9.2. The EI will coordinate a "walk of the project" with the Contractor and other City representatives and soon after will issue the punch list. At the time of issuance, the contract days will resume accruing.

9.2.1. The letter will request the Contractor submit a one-year guarantee and an all bills paid affidavit, both notarized.

9.2.2. If private property is used the EI shall receive from the Contractor a written release from the property owner accepting the condition of their property.

9.3. **Liquidated Damages** - Contractor shall pay Owner $1,000.00 for each day that expires after the time specified in Section 8.1 for Final Acceptance (reference General Conditions, Supplementary Conditions, and the Agreement).

9.4. It is expected that the Contractor shall complete the "final" phase of the project in no more than ten (10) working days after receiving the punch list, within the constraints of the "Schedule" section of these provisions.

9.5. When the Contractor deems all punch list items are complete, the Contractor shall submit a written request for a final inspection.

9.6. When the EI finds all items complete to their satisfaction the EI shall submit a request letter of final acceptance. At this time, contract time will stop.

9.6.1. The final acceptance letter will include an accurate description of the Work being accepted.

9.7. **Warranty** – (City of Waco Standard Specifications for Construction, General Provisions, Section 7.7, page 51). The EI will schedule a warranty walk approximately eleven (11) months after project completion. If any issues arise during the warranty period, the Engineering Inspector will send written request to the Contractor to remedy the issue(s).

10. SUBMITTALS

10.1. All submittals shall be complete shop drawings and design data, providing the information necessary to document compliance with all specifications. See section 2.6 C in the General Provisions of the City of Waco Standard Specifications for Construction. Contractor shall submit all submittals through Projectmates.

10.2. Within 10 working days of the Notice to Proceed, the Contractor shall provide a complete list of submittals for the project. The list shall include all materials and products required on the project (i.e., Item 341M Municipal Dense-Graded Hot-Mix Asphalt).

10.3. **Projectmates Instructions**: When uploading submittals to Projectmates, the Contractor shall do so using the following format:

- **Each item shall be submitted separately** (i.e., do not submit concrete mix and HMAC mix together in one submittal).
- **Description**: Include a brief description of the submittal contents (i.e., Submittal includes mix design and test reports for Item 341M Municipal Dense-Graded Hot-Mix Asphalt).
- Upon clicking ***Add Submittal Items***:
    - Under Category:
        - Do not select anything for Division or Section
        - For *Description Below*, include the title of the submittal provided in the approved list of submittals (i.e., Item 341M Municipal Dense-Graded Hot-Mix Asphalt).
    - Under Submittal Type, select the option that best matches the submittal.
    - Save and close the Add Submittal Items window.
- Leave **Reference #** blank, fill in remaining sections as needed, and click ***Save & Finalize***.
- **Resubmittals**: If review of the initial submittal requires a resubmittal, Contractor shall click on the original submittal in Projectmates, click on ***Resubmit*** at the bottom, and follow the same steps as above.
- Contractor shall note that failure to follow the instructions above may result in rejection of the submittal.

10.4. If “mass submittals” are received, Engineer’s review time stated above will be extended as necessary to perform proper review. Engineer will review “mass submittals” based on priority determined by Engineer after consultation with Owner and Contractor. “Mass submittals” are defined as six or more submittals in one day or 15 or more submittals or items in one week.

10.5. The Engineer shall be responsible for reviewing three (3) submittals related to one item (original submittal and two resubmittals). The Contractor shall compensate the Engineer for their time for any review of submittals beyond this number.

10.6. **Review Time** – All submittals, Request for Information (RFI) and Potential Change Orders (PCO) shall be allowed a maximum of fifteen (15) calendar days for review.

10.7. All Submittals with the gradation requirements or minimum strength requirements shall have the testing done within six months of the Notice to Proceed for the project.

11. UTILITY WORK

11.1. **Utility Identification -** The contractor shall place the appropriate utility identification or marking tape on top of the embedment. Water pipe and its corresponding marking tape shall be the color "blue" and Wastewater pipe and its corresponding marking tape shall be the color "green" or, if necessary, the color that meets AWWA requirements. These costs shall be subsidiary to the linear foot of pipeline being installed.

11.2. **Embedment -** If the bedding under existing storm drain, water, or sanitary sewer pipes is impacted during this construction, such bedding shall be restored in accordance with current City of Waco standard details. Restoration of such bedding is subsidiary to the work. Embedment and backfill for the new water and wastewater lines shall be done per the details and specifications.

11.3. **Tracer Wire** – Tracer Wire is required on all non-metallic utility lines. Tracer Wire shall be installed in the bottom of the trench below the bedding material. The contractor shall use blue colored #12 AWG Solid (0.0808" diameter) steel core soft drawn tracer wire, 250# average tensile break load, 30 mil high molecular-high density polyethylene jacket complying with ASTM-D-1248, 30-volt rating. Manufactured by Copperhead Industries part number 1230-SF or approved equal. No breaks or cuts in the tracer wire of wire insulation shall be permitted. The tracer wire shall be securely bonded together at all wire joints with an approved watertight connector to provide electrical continuity and shall be accessible at all new water valve boxes and water meter boxes. The end of the tracer wire shall be spliced to the wire of a six-pound zinc anode and buried at the same elevations as the water main. Contractor shall perform a continuity test on all trace wire in the presence of the Owner's Representative. If the trace wire is found to be not continuous after testing, Contractor shall repair or replace the failed segment of wire. These costs shall be subsidiary to linear foot of pipeline being installed.

11.4. **Compaction –** All trenching and excavation required for construction shall meet the following requirements. Excavation and backfill in traffic areas shall be backfilled to pavement profile with gravel (pit run) and compacted to 95% standard proctor density per City of Waco Standard Specifications for Construction. Excavation and backfill in non-traffic areas shall be backfilled with the excavated reuse material, where suitable. Reuse material shall meet all specifications and shall be accepted by the City's construction representative. Where reuse material does not meet all specifications, imported borrow shall be used that meets all specifications. All backfill shall be place per all specifications and shall be compacted to 95% standard proctor. Contractor shall include in their original bid price all costs associated with meeting all backfill requirements. No additional compensation shall be made to Contractor for imported and/or select fill.

11.5. **Surface Replacement –** Surface replacement is incidental to the cost of installation of the utility and no additional payment will be made if additional surface replacement is required due to the possibility of unstable soil.

11.6. **Trench Backfill –** Trench backfill consistent with **TYPE "A**" trench backfill is paid for as part of the street trench bid items and no additional payment will be made if additional trench backfill is required due to the possibility of unstable soil.

11.7. **Disposal of Excavated Materials –** Any excess excavated material, not utilized after all backfill requirements have been met, shall become the responsibility of the Contractor. The Contractor shall haul and dispose of excess excavated material outside the limits of this project and of public thoroughfares and water courses, in conformity with pertinent City, County, State and Federal regulations.

11.8. **Disturbed Areas –** All disturbed off-street areas shall be re-seeded or re-sodded and the cost shall be considered subsidiary to the item whose work caused the disturbed areas. Fences requiring removal for construction purposes shall be replaced with a fence of similar type and material as existing and all work, equipment, material, and associated appurtenances shall be subsidiary to the Bid Item that required the fence removal.

11.9. **Abandonment –** It is the Contractor's responsibility to verify that all flow from existing services and main lines have been rerouted prior to abandonment.

11.10. **Valve Covers -** All valve covers removed during water line construction must be salvaged. Contractor to coordinate with the CI for arrangements to return them to the City of Waco Utilities Department on Colcord Avenue.

11.11. **Concrete Collars -** Installation of concrete collars around new in-pavement water valve lids and manhole lids as part of the base bid shall be per City of Waco Standard Details and will be considered subsidiary to the gate valve and fire hydrant bid items.

12. CONNECTION TO EXISTING UTILITY MAINS

12.1. This project requires that the water utility be built as a whole, tested in accordance with the City of Waco requirements, and then connected to the existing main or valves installed for isolation purposes.

12.2. Due to interruptions of commercial and/or residential property owners, connections will be required to be conducted outside the normal working hours. Notification of the affected users in advance of the work is required as outlined in **Section 3** of the Special Project Provisions.

12.3. Contractor may be required to complete some or all tie-ins during low demand/low flow periods, which may require completing such tie-ins during night-time hours. No additional payment shall be made to Contractor for night-time work or during a different period when demands are low and shall be included as part of their original project bid price.

12.4. **Water Line Tie-Ins and Temporary Service Disruptions**

12.4.1. It is imperative that the Contractor develop a submittal for water line tie-ins as well as testing within the first 60 days after the Notice to Proceed.

12.4.2. All efforts shall be made by the Contractor to minimize disruption of service to area customers that may be affected by construction work.

12.4.3. Where existing water mains must be shut off longer than 30 minutes, customers shall be given advanced notification.

12.4.4. The City shall approve all interruptions of water service on a case-by-case basis with intent to provide all customers a minimum advanced notice of 72 hours.

12.4.5. A construction schedule to coincide outside of business hours or non-operating hours will be required where non-residential customers are affected.

12.4.6. Water service shall not be interrupted to any customer or any fire hydrant for a period exceeding 4 hours under any circumstances.

12.4.7. Customers and businesses that require potable water for medical reasons shall not have their service interrupted without prior approval and scheduling.

12.4.8. Water tie-ins will be scheduled Tuesdays through Thursdays only, unless given approval by the Owner. The CI shall coordinate with the RMG Group for valve closures.

12.4.9. The City of Waco will review the Contractor's submitted water tie-in plan. Due to the City of Waco Operations, the tie-in may be delayed or rescheduled due to high demand, outages, chemical improvements or any other reason deemed by the City. The Contractor will not receive additional compensation for remobilization efforts in the event the water tie-in is delayed or rescheduled.

13. STEEL PLATES

13.1. The Contractor will be allowed to use steel plates and pins, secured to the street, if work is to resume within 24 hours. In the event work will not be resumed within 24 hours, the Contractor shall backfill the trench.

13.2. Contractor shall comply with Section 23-31 of the City of Waco Code of Ordinances.

13.3. When the Contractor elects to use a steel plate a cold asphalt mix ramp will be provided to feather around the plate.

13.4. The thickness of plates for trench widths exceeding 72 inches shall be established in an analysis completed by a Licensed Professional Engineer Registered in the State of Texas.

13.5. Steel plates must extend a minimum of 24 inches beyond the edges of excavation.

13.6. In the event of improper installation of the steel plates that presents a nuisance or a public safety problem, the Contractor shall respond to all excavation restoration requests by the City immediately upon notification. Non-responses will result in the required restoration work being done by the City, with all expenses to be paid by the Contractor.

13.7. It is the responsibility of the Contractor to perform and document daily inspections of all active plate(s) or unattended plate(s) location(s), and where necessary take appropriate measures to protect the public safety until work is completed. This documentation shall be available to the CI upon request. No un-plated excavation shall be left unattended overnight.

13.8. All steel plates shall be properly marked with the Contractor's name and Contractor's after-hours contact phone number in the event the plates need to be secured.

14. TRENCHING, BACKFILL, AND SURFACE RESTORATION

14.1. Trenching, backfill, and surface restoration required for installation of water utility installation shall be completed as shown in the construction documents, and in accordance with the SP4.2-001, including a January 13, 2020 update.

14.2. All sawcuts for surface replacement must be in straight, smooth lines.

15. STREET WORK

15.1. The Contractor may pave any time (during working hours established in **Section 8** the has no standing water on the roadway surface and the temperature conditions meet the requirements set forth in TXAPA Specification Item 341M Municipal Dense-Graded Hot-Mix Asphalt. Place mixtures only when the EI determines the roadway surface, weather, and moisture conditions are suitable.

15.2. No asphalt treatments will be applied just prior to a rain event that could result in chemical asphalt or any asphalt by-product pollutant being washed into a stream or stormwater collection system.

15.3. No AC or Emulsion for surface treatment items will be placed between October 1 and April 1 unless approved in writing by the Project Engineer.

15.4. Installation of new curb and gutter, completion of base failure repair, and HMAC grinding and level up work shall all be completed prior to street work.

15.5. At locations where the street abuts existing concrete paving, concrete fillets, or a valley gutter in the direction of travel, the Contractor shall edge mill the existing pavement so that the final pavement surface is level with the concrete feature. This work shall be subsidiary to the preservation treatment and is not included in the Edge Mill bid item quantities.

15.6. All aggregate for each project will come from the same source or blended sources approved by the Project Engineer.

15.7. Remove all dirt and debris accumulated in the curb and gutter sections prior to beginning paving. Likewise, remove all vegetation from pavement edges and concrete edges and curb and gutter prior to operations. This work will be subsidiary to bid items.

15.8. When paving more than one section of continuous street, the Engineer or designated representative will have the final decision whether to pave cross streets.

15.9. Surfacing required as repair due to unsatisfactory material or workmanship by the Contractor or Subcontractors shall be deemed the cost responsibility of the Contractor.

15.10. Any tracking of asphalt material will be the responsibility of the Contractor to mitigate at no additional expense to the City.

15.11. Any conflicts between City of Waco specifications and Texas Department of Transportation specifications will be directed to the Project Engineer to provide clarification.

15.12. Any signs removed shall be replaced the same day.

15.13. Additional quantities for base failure and milling have been included in the bid proposal beyond those shown on the drawings. If areas are identified in the field by the Inspector and Contractor as requiring additional work, the Inspector will communicate with the Project Engineer and City to discuss the additional quantities. The Project Engineer and City will inform the Inspector of approval or disapproval of the additional quantities. If the Contractor and Inspector are unable to reach agreement regarding the use of these quantities, the Engineer and City shall make the final determination. No adjustment to the contract unit prices shall be made due to reduced quantities if all additional quantities are not used.

16. MILL AND OVERLAY

16.1. **General Process** - The mill and overlay process generally consists of milling to a depth of 2" where HMAC is to be placed (unless otherwise specified), base failure repair if needed, cleaning, and applying bonding course of Tracking-Resistant Asphalt Interlayer of product type Hot Asphalt, and placement of 2" of HMAC, Type D. See plans for additional clarification and locations where the process has been modified. See Milling Details for more information.

16.2. **Milling**

16.2.1. Five days prior to commencement of milling operations, Contractor shall notify all affected Property Owners that all vehicles, trailers, etc. must be removed from the street. It is the Contractor's responsibility that the entirety of the area be clear of vehicles, trailers, etc. prior to milling until the street is reopened to traffic after paving operations.

16.2.2. Mill depth transitions perpendicular to direction of travel shall occur over a distance of 20 ft (minimum). Refer to City of Waco Standard Detail ST-44 for more details. This work shall be subsidiary to various bid items.

16.2.3. No peeling, flaking or scabbing HMAC may remain after milling (i.e. if the existing HMAC layer is just over 2" thick); Contractor shall mill or otherwise remove the peeling layer to the base, and this is subsidiary to the milling bid item.

16.2.4. Where asphaltic material is present in gutter pan, Contractor shall mill to gutter pan or to a depth of 1 ½", whichever comes first. **This work shall be subsidiary to the pay item for milling**. If exposed gutter pan is in poor condition, Contractor shall stop milling and notify EI before proceeding.

16.2.5. The minimum thickness of the HMAC overlay in all locations shall be 2 inches unless otherwise shown in the plans. HMAC overlay shall be tapered over a 7-foot width (min) at edges of pavement to ensure final surface course matches the elevation of the gutter lip.

16.2.6. **Edge Milling** shall consist of milling 7-foot width (min) at lip of gutter or driveways and taper from 3" to 0" to ensure final surface course matches the elevation of the lip of gutter or driveway unless otherwise shown in the plans. Edge milling shall not be done in areas where gutter and driveways do not exist. Edge milling into the base (if the existing asphalt is less than 2" thick) will be allowed to ensure the new 2" pavement surface matches the existing or proposed gutter lip.

16.2.7. Do not mill or overlay concrete pavement. Any damage to the concrete shall be repaired at the contractor's expense.

16.2.8. Milling shall be done to match the grade of new and existing surfaces at concrete aprons and valleys, utility vaults (transition so that utility vaults do not need adjustment and a smooth ride is achieved), concrete street intersections, valleys, and along intersecting streets identified in the plans.

16.2.9. Where, due to milling, there is a transverse joint greater than ½" in depth in a travel way a temporary ramp acceptable to the EI shall be placed prior to opening to traffic.

16.2.10. Millings shall become the property of the Contractor and removed from site. This removal is subsidiary to the unit price of milling.

16.2.11. If traffic detection loops are milled, they will not be replaced.

16.2.12. Milling shall be paid by the area milled (SY) regardless of how many passes are needed to follow the instructions on the plans. For example, if the Contractor mill the entire length and width of the street (100 SY) followed by an edge mill on each side of the street (20 SY), payment will be based on the area of the street (100 SY).

16.3. **Prime Coat for Exposed Base**

16.3.1. The Contractor shall utilize a prime coat asphalt applied as a solid and uniform coat over any new base material or any exposed base material once the existing HMAC is removed and shall be in accordance to TxDOT Item 310 "Prime Coat".

16.3.2. Before the prime coat is applied, the surface shall be cleaned thoroughly to the satisfaction of the EI.

16.3.3. Prime coat material shall be AE-P or approved equal at a rate of 0.15 gal/SY of residual asphalt and shall provide complete and uniform coverage of the repair surface. The EI must approve proper coverage and may suspend paving operations until satisfactory prime coat has been applied. **This item shall be subsidiary to the unit price for base failure and asphalt fatigue repair.**

16.3.4. If base material is exposed, the Contractor shall apply a prime coat of the same material and application rate stated above within the same day of exposure. Base material shall not be left without a prime coat overnight or if rain is forecasted within 8 hours. **This item shall be subsidiary to the mill and overlay work.**

16.3.5. No traffic is allowed on the prime coat until it has fully cured and will not track onto existing surfaces. The contractor is responsible for preventing tracking onto driveways, sidewalks, garages, or other existing surfaces. **Any tracking that occurs shall be corrected by the contractor at their own expense.**

16.4. **Bonding Coarse**

16.4.1. **General** – For the mill and overlay bonding course, the Contractor shall use Tracking-Resistant Asphalt Interlayer (TRAIL), product type Hot Asphalt (per TxDOT Items 300 and 341M).

16.4.2. **TRAIL, Product Type Hot Asphalt** - Tracking-Resistant Asphalt Interlayer (TRAIL) of the product type Hot Asphalt shall be used per TxDOT Item 300. The following TRAIL product manufacturers are acceptable for use, without exception:

- *UltraFuse – Trackless Hot Applied by Blacklidge*
- *Underseal* by Jebro
- *eTac-HB* by Ergon Asphalt and Emulsions

Before the bonding course is applied the surfaces shall be cleaned thoroughly to the satisfaction of the Engineering Inspector or designated representative. This product shall be applied at the rate of 0.17 to 0.19 GAL/SY (application rate shall be approved by City prior to application) to provide complete and uniform coverage

of the underlying milled material. The Contractor shall also apply a uniform coat to all contact surfaces including curb and gutters, castings, structures, and joints to provide a closely bonded, watertight joint. The Engineering Inspector or designated representative must approve proper coverage and may suspend paving operations until satisfactory underseal membrane has been applied. This item shall be paid for by the gallon of Hot Asphalt placed properly.

Tracking-Resistant Asphalt Interlayer (TRAIL) of the product type Emulsified Asphalt per TxDOT Item 300 Asphalts, Oils, and Emulsions, may be used in place of TRAIL, product type Hot Asphalt for handwork only in narrow, irregular-shaped areas that are inaccessible to the spray bar and small areas with less than 20 feet longitudinal run. The following product manufactures are acceptable for these exclusive uses only, without exception:

- UltraTack – Trackless Tack (NTSS-1HM) by Blacklidge
- NTQS-1HH by Asphalt Products Unlimited
- CBC-1H by Ergon Asphalt and Emulsions
- CATT-TR by Wright Asphalt Products Co
- BC-1HT by Ergon Asphalt and Emulsions

Before the Emulsified Asphalt bonding course is applied to narrow, irregular-shaped areas that are inaccessible to the spray bar and small areas with less than 20 feet longitudinal run, the surface shall be cleaned thoroughly to satisfaction of the Engineering Inspector or designated representative. This product shall be applied at the rate of 0.17 to 0.19 GAL/SY residual asphalt rate (application rate shall be approved by the City prior to application) to provide complete and uniform coverage of the underlying milled material. The Contractor shall also apply a uniform coat to all vertical and horizontal contact surfaces including curb and gutters, castings, structures, and joints to provide a closely bonded, watertight joint. The Engineering Inspector or designated representative must approve proper coverage and may suspend paving operations until satisfactory underseal membrane has been applied. This item shall be paid for by the gallon of residual asphalt placed properly.

16.4.3. The Project Engineer or designated representative must approve proper coverage and may suspend paving operations until satisfactory bonding coarse has been applied.

16.5. **Hot-Mix Asphalt Concrete (HMAC)**

16.5.1. Refer to TXAPA 341M Municipal Dense-Graded Hot-Mix Asphalt Specification. Submit proposed mix design with laboratory test reports supporting design for review and approval prior to beginning work. Mix Design shall be an approved TxDOT job mix formula from the Waco TxDOT District and date shall be no older than 12 months from date of Notice to Proceed (unless approved by City) and shall identify mix ingredients and proportions.

16.5.2. The HMAC bid items shall be paid by the square yard (SY) of the depth specified. HMAC Level Up shall be paid by the ton (TN).

16.5.3. The Maximum Allowable Amount of Fractioned RAP is limited to 20% for the Type D Surface Course.

16.5.4. A Ride Quality provision will not be part of this Project.

16.5.5. Tack Coat will be subsidiary to the controlling HMAC bid item.

16.5.6. The Contractor must submit a joint layout plan to be reviewed by the Engineer and City.

16.5.7. The Contractor may not place the overlay course until the submittal is approved by the Project Engineer.

16.5.8. Contractor shall provide a joint layout prior to the pre-paving meeting.

16.5.9. HMAC for level up, base failure repair, concrete structure tie-ins, and asphalt fatigue repair shall be TXAPA 341M Municipal Dense-Graded Hot-Mix Asphalt Type D performance graded asphalt 64-22. For bidding purposes, Contractor shall assume level up depth is 2 inches. The City reserves the right to add locations for level up and base failure as identified in the field.

16.5.10. Contractor shall use a laydown machine and a material transfer device for all HMAC placement.

16.5.11. Before the first HMAC course can be installed on the bonding course, the road or driveway must be swept clean to the satisfaction of the Engineer or EI.

16.5.12. The Contractor shall provide results from the mix prior to construction.

16.5.13. Overlay after milling shall occur within 72 hrs on arterial and collector streets, and within 5 working days on all other streets unless otherwise indicated in plans. Once the surface is milled, the Contractor shall be responsible for protecting the milled surface and any exposed base from damage due to weather and vehicle traffic. Any damage that occurs before the street receives an overlay shall be repaired by the Contractor and all repair costs shall be considered subsidiary to the milling and overlay bid items.

16.5.14. The Contractor is responsible for clearing the streets of any vehicles, trailers, etc. prior to the placement of the prime coat or trail product and remain clear until the street is reopened to traffic.

17. BASE FAILURE REPAIR

17.1. See plan sheets for locations where each type of base failure repair is permitted. **For the 2,000 psi concrete used for base failure repair, it is the City's intent for the 28-day compressive strength tests to break around 2,000 psi, with a range of 1,500 psi to 2,500 psi being acceptable.**

17.2. The Base Failure Repair quantities provided in the plans are estimates only. At the contractor’s discretion, prior to or after milling a street, the Contractor shall notify the EI who will walk the street with the Contractor to confirm the base failure repair locations. The City reserves the right to add locations not identified by the Contractor. The unit price as bid for Base Failure Repair shall be used regardless of the final quantity. Base repair work shall be sequenced such that a lane of traffic will remain open in both directions at all times, which may require the work to be done in multiple sections.

17.3. The concrete for base failure repairs shall be cured for a minimum of 4 calendar days before exposed to traffic. The Contractor shall utilize traffic control devices to prevent traffic contact with the concrete during the curing period. This type of base failure repair shall be used for areas with minimum dimensions shown in ST-27 and ST-41.

17.4. For the Type B HMAC base failure repairs, the Type B HMAC shall be installed in 2" to 5" thick lifts to match the top of the existing adjacent road surface after compaction of subgrade. This type of base failure repair shall be allowed only in large base failure areas. See Detail ST-43 for additional requirements. A tack coat shall be installed between lifts and on the vertical edges of the tope lift. A paver shall be utilized to install the top lift. The tack coat shall be subsidiary to the **Type B** base failure repair bid item.

17.5. Removal of all material shall be subsidiary to the Base Failure Repair bid item.

17.6. The width of the base repair shall be increased as needed to prevent the edge of the repair being located in the wheel path. Contractor will be paid for dimensions of actual base repair.

18. PAVEMENT THICKNESS TESTING

18.1. HMAC pavement placed shall be subject to the following testing requirements, which supersede those provided in the City of Waco Standard Specifications for Construction.

18.2. The number and location of pavement thickness tests shall be at the discretion of the City but will typically be not more than every 1,000 LF (in each direction).

18.3. Within 7 calendar days of pavement placement and as a condition for payment, the Contractor shall submit their QA/QC results for: pavement cores, lab-molded densities, and field densities.

18.4. **Pavement Thickness, Deficiencies, and Payment**

18.4.1. For this project, the following table shall be used to determine payment for deficiency in thickness for the Type D HMAC:

Deficiency in Thickness Determined by Cores (inches)	Proportional Part of Contract Price Allowed
0.0-0.20	80 percent
0.20-0.30	70 percent
0.30-0.50	60 percent

If the pavement thickness deficiency is greater than 0.5 inches, the Contractor will be required to remove and replace the entire HMAC pavement thickness the full width of the street and 100 feet longitudinally in each direction of the deficient sample at their own expense. With the City's approval, the Contractor may conduct, at their expense, subsequent tests to isolate the deficiency to less than 100 feet longitudinally. These additional tests shall be scheduled with the EI and completed by a City-approved laboratory.

18.4.2. If pavement removal and replacement is required, any areas cored by either the City or the Contractor shall be included in the pavement to be removed and replaced.

18.4.3. No additional payment over the contract unit price shall be made for any pavement thickness exceeding that required by the plans.

19. WATER VALVE BOXES, MANHOLE LIDS

19.1. Manhole and water valve lids shall be adjusted and fitted with concrete diamonds in accordance with the details provided in the plans.

19.2. Aside from the large diameter water manholes, all other storm and sewer manhole lids and water valve lids shall be adjusted in accordance with the details provided in the plans. For manholes and valves in close proximity, diamonds may be combined with engineer's approval.

19.3. The Contractor has the option to adjust or construct all manholes and valves to final pavement elevations prior to the final mat of HMA or after final mat of HMA. If between the final elevation adjustment and the final mat of HMA, the manholes and valves are going to be exposed to traffic, place temporary asphalt around the manhole and valve to provide a +/- 50:1 taper. The cost of elevation adjustment and the concrete apron around the manhole and valve will be part of the manhole and valve work. The asphalt tapers shall be subsidiary to the 2" HMA overlay bid item.

19.4. Adjustment of standard manholes and valves shall be made to within tolerance shown in applicable details. Manhole and water valve lids shall be adjusted in accordance with COW Standard Details, and all shall include a concrete pad as shown in the "Manhole Lid Height Adjustment" detail and "Valve Box Height Adjustment" detail. Note that abandoned valves may exist and will be addressed by the EI during construction. If old style valve boxes are encountered during the raising process, the Contractor shall replace them with boxes meeting the new details. The boxes will be either raised or replaced and paid for by the appropriate bid item. Contractor will not be paid for both. Salvage all water valve covers and deliver to the City's Utilities Department at 200 Colcord Avenue. See the plan sheets for an indication of where old style valves have been identified, but note that there may be more.

19.5. Adjustment of large diameter water MH lids with existing concrete collars shall not be made. Existing concrete collars surrounding these shall remain, and milling shall be performed up to the concrete without causing damage. Any damage to the concrete will require the Contractor to work with the Water Utilities department to remove and replace the vaults/lids/pads with a reinforced concrete vault/lid/pad at the Contractor's expense.

19.6. The Contractor shall coordinate elevation adjustments of any "SWB Manholes" or AT&T manholes with Chance Guest of AT&T who can be contacted at (254)715-7869 (mobile) or at cg7838@att.com. Elevation adjustments to any other utility manholes encountered shall be coordinated by the Contractor.

20. CONCRETE CURB AND GUTTER, SIDEWALKS, ADA RAMPS, FILLETS, VALLEY GUTTERS, DRIVEWAYS, AND OTHER CONCRETE FACILITIES

20.1. The Contractor shall be responsible for construction of all concrete curb and gutter, sidewalks, ADA ramps, fillets, valley gutters, driveways, and other concrete facilities to meet existing grades as shown in the plans and described in all details and notes.

20.2. All work shown in the aforementioned concrete facility standard details shall be subsidiary to their respective bid items. **This work also includes the Type D HMAC asphalt surface and concrete base tie-in (typically 2') between any new concrete facility and any adjacent pavement** to provide a smooth transition between the existing pavement and the new concrete edge. This work includes the removal of any existing subgrade, base, paving, existing concrete facility, etc. and shall be subsidiary to various line items.

20.3. **A topsoil and sod tie-in (typically 2') shall be provided between the new concrete facility and the adjacent existing grade.** This work includes the removal of existing material as needed to achieve a smooth transition. Existing dirt may be reused for backfill; however, a minimum of 4 inches of topsoil shall be imported and placed on top to support proper grading and sod installation. This work shall be considered subsidiary to the respective concrete bid items.

20.4. The Contractor shall work with property owners when working on or near driveways in order to ensure that access is maintained at all times.

20.5. **Relocation and Replacement of Irrigation:** to include the replacement of any sprinkler lines, sprinkler heads and wiring as impacted by the Contractor. All relocation of private irrigation amenities shall be subsidiary to the irrigation improvements bit item.

20.6. The Concrete Curb and Gutter bid item shall include the removal of existing HMAC & Base from a point 2 feet outside of the lip of gutter to a point 2' from the back of curb. see **Detail ST-20A**.

20.7. Root Barrier pay items shall be subsidiary to the Concrete Curb and Gutter bid item.

21. PAVEMENT MARKINGS

21.1. **Temporary Pavement Markings**: Temporary Pavement Markings shall be placed on streets where existing pavement markings are located before lanes are opened to traffic and shall remain in place until permanent pavement markings are installed. Temporary markings shall match the location, layout, and type shown in the plans for the permanent pavement markings.

21.2. The Contractor will lay out the proposed striping in accordance with TxDOT Traffic Control Plan Standards and the latest version Texas Manual on Uniform Traffic Control Devices (TMUTCD), TxDOT Pavement Markings Standards, and project striping layout sheets. The Engineer will verify the proposed striping layout before the beginning of striping operations.

21.3. Placement of permanent markings on all streets shall be done as existing, unless indicated in plans. Markings shall meet the requirements of TxDOT Item 666, "Retroreflectorized Pavement Markings." This shall include any non-overlaid concrete sections within the street limits.

- Type 1 markings must meet the following minimum retroreflectivity values for edgeline markings, centerline or no passing barrier-line, and lane lines when measured any time after 3 days, but not later than 10 days after application:
  - White markings: 250 millicandelas per square meter per lux (mcd/m2/lx)
  - Yellow markings: 175 mcd/m2/lx

- Contractor shall complete the retroreflectivity testing in accordance with TxDOT Item 666 and shall provide written report with test results confirming conformance the required retroreflectivity values.
- Surface preparation of concrete to receive pavement marking is required and shall be subsidiary to the various pavement marking bid items.

21.4. Placement of Raised Pavement Markers shall be done in accordance with TxDOT Item 672, "Raised Pavement Markers."

21.5. Two-way left-turn use arrow pavement markings are to be placed, with 16 feet typical spacing, at or just downstream from the beginning of the two-way left-turn lane, as indicated in plans, per the Texas Manual on Uniform Traffic Control Devices, Section 3B.20.

21.6. Pedestrian Crossings are to have 10 feet long by 2 feet wide white bars with 2 feet spacing between the bars (4' from center to center).

21.7. Reflective pavement markings of the break type shall be measured and paid for by the linear feet of pavement marking applied. Contractor shall note that the length and spacing of the yellow and white break lines shown on the plans may not be to scale. The length of the lines shall be 10' and the length of the spacing shall be 30'.

21.8. Contractor shall arrange construction operations to prevent the hauling of materials through the completed pavement sections unless otherwise approved by the EI or City Engineer.

21.9. The Contractor shall open the pavement to traffic each night.

21.10. The Contractor shall supply and install the blue raised reflective markers utilized for all fire hydrants within the work limits.

21.11. Removal of **ALL** pavement markings (including raised pavement markers) as work progresses shall be subsidiary to the various bid items.

22. DRAINAGE

22.1. If it is necessary in the execution of this project to interrupt the natural drainage of the surface, or the flow of artificial drains, the contractor shall provide temporary drainage facilities that shall prevent damage to public or private interests and shall restore the original drainage as soon as the work permits. Any temporary drainage facilities needed for this project shall be subsidiary to existing bid items.

22.2. The Contractor shall be held liable for all damages, which may result from neglect to provide for either natural or artificial drainage, which the Contractor's work may have interrupted.

23. TXDOT WACO DISTRICT, GENERAL NOTES

23.1. The following TxDOT Waco District General Notes shall be included as part of the contract documents:

ITEM	GENERAL NOTES
320	**EQUIPMENT FOR ASPHALT CONCRETE PAVEMENT**
	a) Use a self-propelled wheel mounted MTV capable of receiving mix from the haul trucks, separate from the paver. It will have a minimum storage capacity of approximately 25 tons. It will be equipped with a pivoting discharge conveyor and will completely and thoroughly remix the material prior to placement. The effectiveness of the MTV's remixing ability is subject to the approval of the Engineer. In addition, the paver will have a surge storage insert with a minimum capacity of 20 tons.
502	**BARRICADES, SIGNS, AND TRAFFIC HANDLING**
	a) Access will be provided to all business and residences at all times. Where turning radii are limited during phased construction at intersections, provide all weather surfaces such as RAP or base in turning movements to accommodate and to protect the traffic from edge drop-offs. Materials, labor, maintenance and removal for these temporary accesses and radii will not be paid for directly but will be considered subsidiary to the various bid items.
	b) The Contractor Responsible Person(s) (CRP) for Work Zone Traffic Controls will inspect and ensure any deficiencies are corrected each and every day throughout the duration of this contract. Any misaligned or damaged traffic control devices will be repaired as soon as practical after deficiency is discovered.
	c) In addition to providing a Contractor's Responsible Person and a phone number for emergency contact, have an employee(s) available to respond on the project for emergencies and for taking corrective measures within One (1) Hour.
503	**PORTABLE CHANGEABLE MESSAGE SIGN**
	a) This project will require "full matrix" type portable changeable message signs.
	b) Ensure that the Contractor's Responsible Person for traffic control can revise messages within thirty (30) minutes of notification.
	c) Furnish portable changeable message signs. The portable changeable message sign(s) will be used for all closures as shown on the traffic control plan standard sheets.
	d) Supply portable changeable message sign(s) in accordance with the Traffic Control Plan standard sheets and Article 6f.55 of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways Part VI.
666	**RETROREFLECTORIZED PAVEMENT MARKINGS**
	a) The Contractor will layout the proposed striping in accordance with TxDOT Traffic Control Plan Standards and latest version Texas Manual on Uniform Traffic Control Devices (TMUTCD), TxDOT Pavement Markings Standards, and project striping layout sheets. The Engineer will verify proposed striping layout prior to the beginning of striping operations.

EXHIBIT A

Notification Example

NOTICE OF STREET CONSTRUCTION

The City of Waco contractor, XXXXXX, is working to improve the streets in your area. XXXXX Street from xxxxxxx to xxxxxxx is scheduled to be milled and overlayed.

Work Schedule: **From March 2, 2024 to March 31, 2024**

We appreciate your patience as we work, as quickly as possible, to improve the street system in your area.

Note: If you normally park your vehicle on the street, we would appreciate your not doing so during the scheduled time frame. This work should not affect access to your home or business.

The work schedule is subject to change depending on weather, working conditions, and other issues.

Questions? Please call the contractor's representative at 254-xxx-xxxx or the City's Community Outreach Coordinator at 254-750-6613.

Better
Streets
WACO

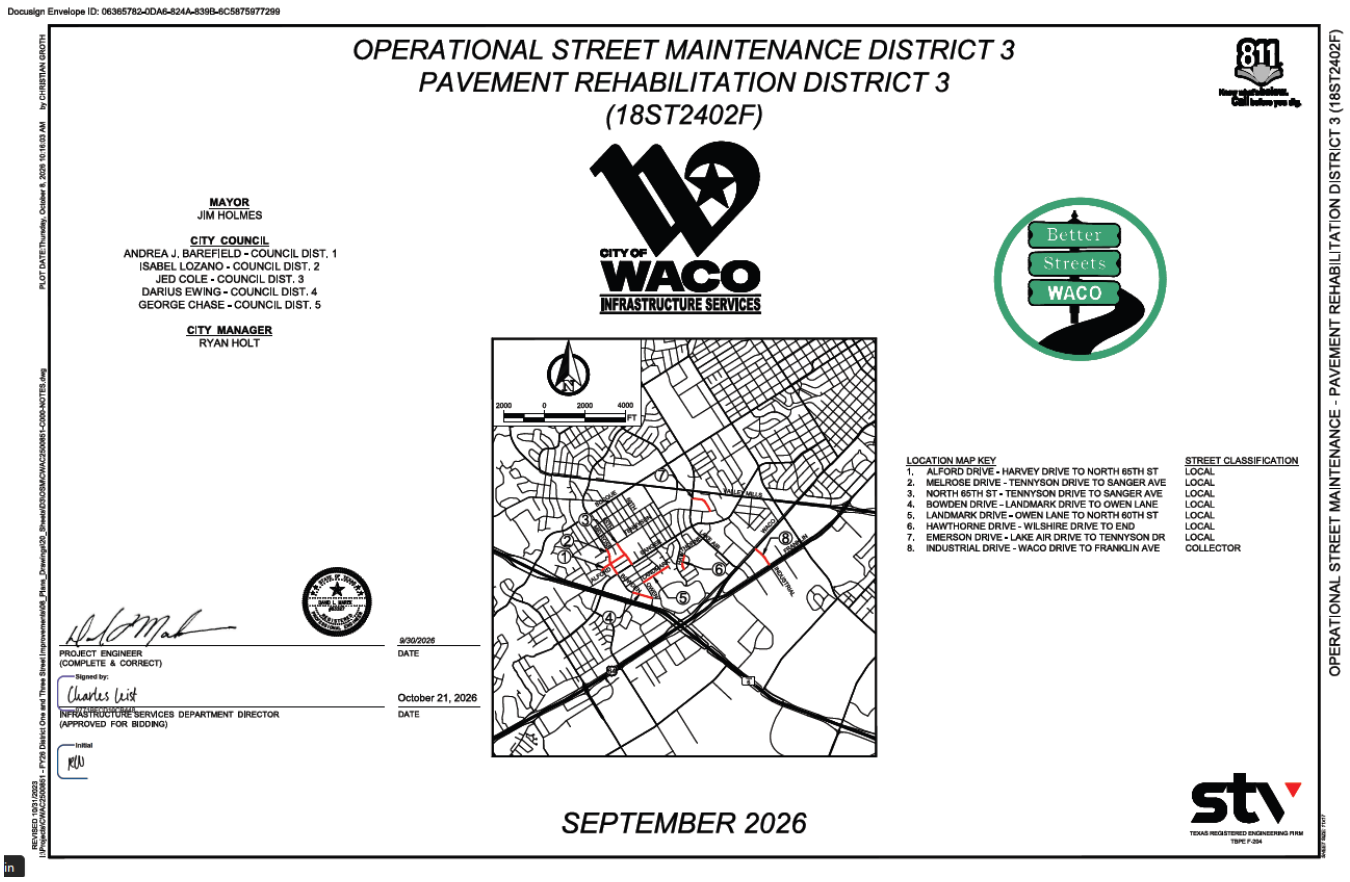
www.betterstreetswaco.com

APPENDIX F

Plans Specifications

Link:

https://files.wacotx.gov/f/10f2316f2a50af70



Geo Technical Report

Link:

https://files.wacotx.gov/f/435bad21d7b3f8dc