

**SPECIFICATIONS AND CONTRACT DOCUMENTS
FOR
BRIDGE DECK OVERLAY – 1ST AVENUE OVER BEAR CREEK**

Dyersville, IOWA
2023

	<p>I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.</p> <p> <u>6/15/2023</u> Bradley J. Fleming, P.E. Date</p> <p>License number <u>25337</u></p> <p>My license renewal date is December 31, 2024.</p> <p>Pages or sheets covered by this seal: <u>ALL PAGES</u></p> <p>_____</p> <p>_____</p>
--	--



CITY OFFICIALS

Mayor

Jeff Jacque

City Council

Tom Westhoff
Jenni Ostwinkle Silva
Jim Gibbs
Mike English
Mike Oberbroeckling

City Clerk

Tricia Maiers

City Administrator

Mick Michel

Public Works Director

John Wandsnider

TABLE OF CONTENTS

	<u>Page</u>
TITLE SHEET	1
CITY OFFICIALS	1
TABLE OF CONTENTS.....	1
NOTICE OF HEARING AND LETTING	1-3
INFORMATION FOR BIDDERS	1-5
PROPOSAL FORM.....	1-6
CONTRACT	1-2
PERFORMANCE AND MAINTENANCE BOND.....	1-2
PAYMENT BOND	1-2
INDEX OF GENERAL CONDITIONS	1-3
GENERAL CONDITIONS	1-22
DIVISION 1 – SPECIAL PROVISIONS.....	1-8

NOTICE TO BIDDERS AND NOTICE OF PUBLIC HEARING ON PROPOSED PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATE OF COST FOR CONSTRUCTION OF "BRIDGE DECK OVERLAY – 1ST AVENUE OVER BEAR CREEK", IN AND FOR THE CITY OF DYERSVILLE, IOWA, AND THE TAKING OF BIDS FOR SAID IMPROVEMENTS

Sealed proposals, subject to the conditions contained herein, will be received by the City Clerk of the City of Dyersville, Iowa, at the City Clerk's office in City Hall, 340 1st Avenue East, Dyersville, Iowa, before 3 o'clock p.m. according to the clock in the City Council chambers on the 11th day of July, 2023 for:

Construction of "Bridge Deck Overlay – 1st Avenue Over Bear Creek", as hereinafter described in general and as described in detail in the plans and specifications now on file in the office of the City Clerk, Dyersville, Iowa.

Bids received after the deadline for submission of bids as stated herein shall not be considered and shall be returned to the late bidder unopened.

Proposals received will be opened, read aloud, tabulated, and referred to the City Council for consideration at a meeting to be held at 6 p.m. on the 17th day of July, 2023 in City Hall, City Hall, 340 1st Avenue East, Dyersville, Iowa. Bids will be acted upon at such time or at such later time as may then be fixed. Prior thereto, at said time specified above, in the Council Chambers in City Hall, a hearing will be held on the proposed plans, specifications, form of contract, and estimate of cost for said Improvements, and at said hearing any interested person may appear and file objections thereto.

The extent of the work involved is the overlay and associated repairs including, but not limited to the following:

Bridge Deck Overlay – 1st Avenue Over Bear Creek

The extent of the work involved is the furnishing of labor and new materials required for repairs that include: concrete deck repair, deck overlay, deck drain extensions, approach pavement and paving notch replacement, barrier rail and concrete curb removal, aesthetic barrier rail construction, and other misc. repairs.

The Proposal shall be made out on the form furnished by the City of Dyersville and obtained from WHKS & Co., Engineers, Planners, and Surveyors, and must be accompanied in a sealed envelope by either: (1) a certified check, or a cashier's check drawn on an Iowa bank, or a bank chartered under the laws of the United States, in an amount of 5% of bid amount; or (2) a certified share draft drawn on a credit union in Iowa or chartered under the laws of the United States, in an amount of 5% of bid amount; or (3) a bid bond executed by a corporation authorized to contract as a surety in the State of Iowa, in the penal sum of 5% of bid amount.

The bid security shall be made payable to the City Clerk of the City of Dyersville, Iowa.

The bid security must not contain any conditions either in body or as an endorsement thereon. The bid security shall be forfeited to the City as liquidated damages in the event the successful bidder fails or refuses to enter into contract within ten (10) days after the award of contract and post bond satisfactory to the City insuring the faithful fulfillment of the contract and the maintenance of said work, if required,

pursuant to the provisions of this notice and the other contract documents. The City will accept bid bond forms that meet the requirements of Iowa Code section 26.8.

Sales Tax Exemption. Contractors and subcontractors shall not include sales tax for material purchases. At the time of the contract acceptance by the City Council, the prime contractor and all subcontractors will be issued a certificate of exemption.

Bidders shall not be permitted to withdraw their bids for a period of thirty (30) days after the same are opened.

By virtue of statutory authority, a preference will be given to products and provisions grown and produced within the State of Iowa.

In accordance with Iowa statutes, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country if that state or foreign country gives or requires any preference to bidders from that state or foreign country, including but not limited to any preference to bidders, the imposition of any type of labor force preference, or any other form of preferential treatment to bidders or laborers from that state or foreign country. The preference shall be equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident. In the instance of a resident labor force preference, a nonresident bidder shall apply the same resident labor force preference to a public improvement in this state as would be required in the construction of a public improvement by the state or foreign country in which the nonresident bidder is a resident.

Bidders will be required to complete a Bidder Status Form from the Iowa Department of Labor regarding the Contractor's resident status within the State of Iowa. Failure to submit a fully completed Bidder Status Form with the bid may result in the bid being deemed nonresponsive and rejected.

The Contractor shall commence work after the Notice to Proceed is issued and work shall be completed on or before November 30th, 2023

Payment to the Contractor for said Project will be made in cash derived from the proceeds of the issuance of bonds as may be legally used for such purposes, governmental grants and/or from cash on hand. Any combination of the above methods of payment may be used at the discretion of the City.

The Contractor will be paid each month ninety-five (95) percent of the Engineer's estimate of the value of acceptable work completed at the end of the preceding month. Final payment will be made in accordance with Iowa Code chapters 26 and 573, as amended. No partial or final payment will be due until the Contractor has certified to the City that the materials, labor and services involved in each estimate have been paid for in accordance with the requirements stated in the specifications.

The successful bidder will be required to furnish a bond in an amount equal to one hundred (100) percent of the contract price, said bond to be issued by a responsible surety approved by the City and which shall guarantee a faithful performance of the Contract and the terms and conditions therein contained and shall guarantee the prompt payment of all materials and labor and protect and save harmless the City from claims and damages of any kind caused by the operations of the Contractor and shall also guarantee the maintenance of the improvements constructed for a period of two (2) years after completion and acceptance by the City.

Plans and specifications governing the construction of the proposed improvements have been prepared by WHKS & Co., Engineers, Planners, and Surveyors, which plans and specifications and the proceedings of the City referring to and defining said proposed improvements are hereby made a part of the Notice by reference, and the proposed contract shall be executed in compliance therewith. Copies of said plans and specifications are now on file with the City Clerk and at the offices of WHKS & Co., and may be examined by the bidders.

Plans and specifications are available to download free of charge at www.questcdn.com. Plans and specifications for private use may also be obtained from WHKS & Co., Engineers, Planners, and Surveyors, 1701 Route 35 North, East Dubuque, IA 61025, for a refundable deposit of \$50. If the plans and specifications are not returned to WHKS & Co. within fourteen (14) days after the award of the project and in reusable condition, the deposit shall be forfeited.

The City does hereby reserve the right to reject any or all bids, to waive informalities, and to enter into such contract, or contracts, as it shall deem to be in the best interest of the City.

Published upon order of the City Council of the City of Dyersville, Iowa.

CITY OF DYERSVILLE, IOWA

Attest: _____ /s/ Tricia Maiers
City Clerk

INFORMATION FOR BIDDERS

Proposals

Proposals must be submitted on forms furnished by the Engineer and endorsed:

To: City Council
Dyersville, IA
Bid for Bridge Deck Overlay – 1st Avenue Over Bear Creek

Proposals must be filled out with ink or typewriter, and without erasure, interlineation or changes, and if not made in accordance with Information for Bidders, will be subject to rejection as irregular, yet the Owner reserves the right to waive any irregularity.

It is expressly agreed that by submitting a proposal the bidder acknowledges that he/she has examined the location or site of the proposed improvements and the plans and specifications and accepts all the terms and conditions thereof.

Proposals will be made in the name of the principal, and if a partnership, the names of all partners shall be given. Exact post office address shall be given in all cases.

Facsimile Proposals will not be considered, but modifications by facsimile of Proposals already submitted will be considered if received prior to the time set for the bid opening.

Proposal Guaranty

See Bid Announcement for requirements and responsibility.

Bid Options

Two deck overlay options are described in the plans. Contractor may select either Option 1 or Option 2 and shall submit one total bid price. Award will be based on the lowest total bid price.

Award

The Owner will proceed without unnecessary delay to consider the proposals and reserves the right to reject all bids, to reject any unresponsive bid, or to waive any technicalities in bids received. One contract will be awarded for the total project construction work based on the low total bid selected at the City's discretion.

Time for Completion

The work shall commence after the Notice to Proceed is issued and shall be completed within the time frame stated in the Bid Announcement. Any extension of time shall be at the discretion and express approval of the Owner.

Failure to Complete on Time

If the Contractor should fail to complete the contract within the date set for completion or the date set for completion as extended by the Owner, he/she shall be held liable, as stated in the Special Provisions.

Return of Proposal Guaranty

Proposal guarantees of the lowest two or more bidders may be retained until a contract is awarded or rejection made, but not to exceed the time period listed in the Bid Announcement. Other proposal guarantees shall be returned after the review and tabulation of bids is completed.

Owner

Whenever the term "Owner" appears in these specifications, it shall mean the City of Dyersville, IA.

Engineer

Whenever the term "Engineer" appears in these specifications, it shall be understood to mean WHKS & Co., Engineers, Planners, and Surveyors or their duly authorized representatives, such representatives acting severally within the scope of the particular duties entrusted to them.

Drawings

The drawings which show the details of the work specified herein are designated the "Plans" and form an integral part of the specifications and contract documents.

Right-of-Way

The Owner will furnish all property, easements or right-of-way necessary for the construction of the project. The Contractor shall conduct their operations within the right-of-way provided, unless additional arrangements are made between the Contractor and adjacent property owners.

Payment

The Contractor should refer to the Bid Announcement for the method of financing and work progress payments.

Pre-Construction Meeting and Schedule of Work

The pre-construction meeting shall be held on call by the Engineer and shall include discussion of the schedule of work, safety, related responsibilities with utilities, and other pertinent related items concerning the proposed construction. At this meeting the Contractor shall provide the Owner with a list of subcontractors, their foreman, and telephone numbers, as well as a planned construction schedule. Representatives of the various utility companies will be invited to the pre-construction meeting to begin early coordination and cooperation.

Bond and Insurance

The Contractor shall present the following documents before completion and signing of the contract:

- A. Performance Bond equal to 100% of the contract amount.
- B. Payment Bond equal to 100% of the contract amount.
- C. Maintenance Bond whereby the Contractor expressly agrees to maintain the work for two (2) year(s) from the date of final acceptance by the Owner. It is understood and agreed that the maintenance shall cover all repairs and replacements made necessary by defects in material and workmanship and such maintenance shall be provided without additional charge or cost to the Owner.
- D. The Contractor shall file with the Owner proof of insurance coverage meeting the requirements of Section 6.1 of the General Conditions.

Sales Tax

All bids shall not include Iowa Sales Tax for materials used in the project. Upon award, the successful bidder shall immediately provide a listing of all Contractors, which will work on the project. The listing shall include name, address, tax ID number, and brief description of the work to be performed. The City will register the contractors with the Iowa Department of Revenue and will furnish appropriate tax-exempt certificates to the successful bidder for distribution and use.

Plan Charge

See Bid Announcement for plan availability and charges.

Prompt Payment to Subcontractors Provisions

The Iowa Legislature has passed legislation relating to progress payments, final payments, and retention from payments made to subcontractors on public improvement construction projects. Provisions of the legislation include the following:

1. Retention: The Contractor may retain from each payment to a subcontractor not more than the lesser of five percent (5%) or the amount specified in the contract between the Contractor and the Subcontractor.
2. Prompt Payment: A progress payment or final payment to a subcontractor for satisfactory performance of the subcontractor's work shall be made no later than:
 - a) Seven (7) days after the Contractor receives payment for that subcontractor's work.
 - b) A reasonable amount of time after the Contractor could have received payment for the subcontractor's work, if the reason for nonpayment is not the subcontractor's fault.

A Contractor's acceptance of payment for one subcontractor's work is not a waiver of claims, and does not prejudice the rights of the Contractor, as to any other claim related to the Contract or project.

3. Interest Payments: If the Contractor receives an interest payment, the Contractor shall pay the subcontractor a share of the interest payment proportional to the payment for the subcontractor's work.

Addenda

No interpretation of the meaning of the Plans, Specifications or other prebid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to WHKS & Co., 1701 Route 35N, East Dubuque, IL 61025 and to be given consideration must be received at least five days prior to the date fixed for the opening of Bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the Specifications which, if issued, will be delivered to all prospective bidders (at the respective address furnished for such purposes). Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his Bid as submitted. All addenda so issued shall become part of the Contract documents.

Bidders shall file their names and addresses with the Engineer in order that any addenda, which may be issued, may be mailed to them.

Substitution of Materials

- A. Substitution or approval of materials prior to bidding

Whenever any particular brand or make of material or apparatus is hereinafter called for, every bidder, submitting a Bid upon this Specification and the accompanying Drawings, obligates himself to the use of such brands and makes, or of such other brands or makes as shall have been duly approved by the Engineer and the Owner in the manner described herein.

Whenever any article or any material is specified by a reference to the name of any manufacturer or dealer, or by specific reference to the catalogs of manufacturers or dealers, the intent is to establish a standard of excellence which the Engineer and the Owner have determined upon as requisite and necessary for this Project, and subject only therefore, to such modifications as the Engineer and the Owner may make in accordance with the procedure given in this article. It is, therefore, mandatory and binding upon the bidders to abide within the limits of the restrictions imposed.

Where the words "or equal", "as selected", "approved", "approved make" or other synonymous terms are used in reference to material, quality, methods or apparatus in lieu of or in addition to other specific references, it is to be distinctly understood that the approval of any such substitutions is vested in the Engineer whose decision shall be final and binding upon all concerned.

The intent of this Specification is not to ELIMINATE PROPERLY QUALIFIED ENTRANTS FROM COMPETITION, but to confine the bidding on the part of Contractors, manufacturers and dealers, to those whose standing and qualifications are such that the

Engineer and the Owner feel warranted in giving them their approval. If, however, any bidder desires to have consideration given to INDIVIDUALS, FIRMS, MATERIALS, BRANDS, MAKES, ETC., OTHER THAN SPECIFIED, he may have the privilege at any time prior to ten days (240 hours) of the hour and day set for the opening of Bids of submitting or causing to be submitted to the Engineer for his approval, any such matters. Request for approval of materials or equipment shall be submitted to the Engineer in writing at WHKS & Co., 1701 Route 35N, East Dubuque, IL 61025, at any time prior to the established deadline. Requests received after the established deadline will not be considered. All requests shall clearly define and describe materials or equipment for which approval is requested. Requests shall be accompanied by manufacturer's literature, specifications, drawings, cuts, performance data, etc., where same is necessary to completely describe the product.

If, therefore, the same shall receive the Engineer's approval, or if the Engineer himself shall decide to enlarge the scope of the Specifications, such approvals or additional information will be made only by addendum duly numbered, dated and issued and delivered to each bidder receiving a set of Contract Documents, so that the bidders may have an opportunity to avail themselves of any such information prior to the submission of their proposals.

It is hereby understood and agreed by all bidders that all Bids will be based upon materials and equipment as specified or approved via addendum by the Engineer and the Owner as acceptable on this project.

Where specific reference has been made to one or more brands, or makes or materials, no substitution will be considered or permitted after the Bids have been opened, except as the Owner may elect in accordance with the following provision of these Specifications.

B. Substitution or approval of materials after bidding

Since all Bids are based upon materials and equipment as specified or approved prior to bidding, the Engineer and the Owner will not consider substitutions after bidding except in such cases where it is necessary to make a substitution because of strikes, lockouts, bankruptcy, discontinuance of a product, etc. Requests for such substitutions of materials after the award of a Contract shall be made in writing to the Engineer with a copy to the Owner and shall be made within ten days of the date that the Contractor ascertains he cannot obtain the material or equipment specified. Such request shall be accompanied by a complete description of the material or apparatus on which a substitution is desired to be made. Substitution of materials or apparatus other than those specified will not be accepted except upon the recommendation of the Engineer to the Owner and with written approval of the Owner.

PROPOSAL FORM

Proposal of _____
(Name of Bidder)

of _____
(City) (State)

To construct Bridge Deck Overlay – 1st Avenue over Bear Creek

TO: The City Council
Dyersville, Iowa

(I) (We) hereby certify that (I am) (we are) the only person or persons interested in this proposal as principals; that an examination has been made of the plans, specifications and contract forms, including the supplemental requirements contained herein, and of the site of the work; (I) (we) understand that all quantities of work are to be performed at the unit prices or lump sums stipulated herein; (I) (we) propose to furnish all necessary machinery, equipment, tools, labor, and other means of construction and to furnish all materials specified, in the manner and the time prescribed, and to do the work at the prices herein set out.

To do the work in accordance with the Plans, Special Provisions and Technical Specifications.

To do all "extra work" which may be required to complete the work contemplated at unit prices or lump sums to be agreed upon in writing prior to starting such work.

As evidence of good faith in submitting this Proposal, the undersigned encloses a bid security as required by the Notice, which, in case he/she refuses or fails to accept an award and to enter into a contract and file the required bonds within the prescribed time, shall be forfeited to the Owner, as liquidated damages.

The undersigned agrees to execute the Standard Form of Contract upon written notice of acceptance of the bid as accepted and give bond with good and sufficient surety or sureties and in the required amounts within ten (10) days after the prescribed forms are presented for signature or forfeit the bid security furnished herewith.

The undersigned understands that the breakdown of proposal items into various categories of work is for the convenience of the Owner. The undersigned agrees to begin work within ten (10) days after "Notice to Proceed" is issued and to complete the same within the contract period shown below:

_____	_____
Beginning Date	Completion Date
10 days after Notice to Proceed	November 30,2023

Any Contractor who proposes any alteration of the plans in any respect from that shown shall submit such proposal to the Engineer for approval at least ten days prior to the letting date.

Base Bid - Division 1

Item	Description	Unit	Quantity	Unit Price	Total
1	Top Soil, Strip, Salvage and Spread	CY	20	\$	\$
2	Earth Shoulder Construction	STA	3	\$	\$
3	Bridge Approach Pavement, as per Plan	SY	431.2	\$	\$
4	Removal of Pavement	SY	431.2	\$	\$
5	Remove and Reinstall Sign as per Plan	EA	4	\$	\$
6	Painted Pavement Markings, High-Build Waterborne	STA	26	\$	\$
7	Wet Retroreflective Removable Tape Markings	STA	6.44	\$	\$
8	Pavement Markings Removed	STA	13	\$	\$
9	Temporary Barrier Rail, Concrete	LF	750	\$	\$
10	Temporary Traffic Signals	EA	1	\$	\$
11	Traffic Control	LS	1	\$	\$
12	Flaggers	EA	2	\$	\$
13	Mobilization	LS	1	\$	\$
14	Temp Crash Cushion	EA	4	\$	\$
15	Mulching	ACRE	0.04	\$	\$
16	Seeding and Fertilizing (Rural)	ACRE	0.04	\$	\$
17	Stabilizing Crop - Seeding and Fertilizing	ACRE	0.04	\$	\$
18	Silt Fence	LF	525	\$	\$
19	Removal of Silt Fence or Silt Fence for Ditch Checks	LF	525	\$	\$
20	Maint. of Silt Fence/Silt Fence-Ditch Check	LF	42	\$	\$
21	Mobilizations, Erosion Control	EA	1	\$	\$
22	Mobilizations, Emergency Erosion Control	EA	1	\$	\$

Total (Division 1) \$ _____

Base Bid - Division 2

Item	Description	Unit	Quantity	Unit Price	Total
1	Removals as per Plan	LS	1	\$	\$
2	Excavation, Class 20	CY	22.7	\$	\$
3	Reinforcing Steel, Epoxy Coated	LB	7,557	\$	\$
4	Deck Repair, Class A	SY	307.2	\$	\$
5	Concrete Barrier Rail, Aesthetic	LF	269.6	\$	\$
6	Paving Notch Replacement	LF	70.7	\$	\$
7	Drain Extensions	EA	4	\$	\$

Total (Division 2) \$ _____

Overlay Option 1 - Division 3

Item	Description	Unit	Quantity	Unit Price	Total
1	Deck Overlay (Class O PCC)	SY	428.2	\$	\$

Overlay Option 2 - Division 4

Item	Description	Unit	Quantity	Unit Price	Total
1	Deck Overlay (Class HPC-O PCC)	SY	428.2	\$	\$

Bid Summary

Total Bid
(Select One)

Base Bid + Overlay Option 1 (Divisions 1 + 2 + 3) \$ _____

OR

Base Bid + Overlay Option 2 (Divisions 1 + 2 + 4) \$ _____

The undersigned has completed the attached Bidder Status Form from the Iowa Department of Labor regarding the Contractor's resident status within the State of Iowa. Failure to submit a fully completed Bidder Status Form with the bid may result in the bid being deemed nonresponsive and rejected.

The right is reserved, as the interest of the Owner, may require, to reject all bids, any unresponsive bid and to waive technicalities in bids received.

The receipt of the following addenda is hereby acknowledged:

Addendum No.

Dated

The Contractor understands that this Proposal is binding upon him/her for a period of thirty (30) days from and after the opening of all bids for this proposed construction.

Dated this _____ day of _____, 2023.

Company Name

Company Owner/Officer Printed Name

Company Owner/Officer Signature

Address _____

E-mail _____

Bidder Status Form

To be completed by all bidders

Part A

Please answer "Yes" or "No" for each of the following:

- Yes No My company is authorized to transact business in Iowa.
(To help you determine if your company is authorized, please review the worksheet on the next page).
- Yes No My company has an office to transact business in Iowa.
- Yes No My company's office in Iowa is suitable for more than receiving mail, telephone calls, and e-mail.
- Yes No My company has been conducting business in Iowa for at least 3 years prior to the first request for bids on this project.
- Yes No My company is not a subsidiary of another business entity or my company is a subsidiary of another business entity that would qualify as a resident bidder in Iowa.

If you answered "Yes" for each question above, your company qualifies as a resident bidder. Please complete Parts B and D of this form.

If you answered "No" to one or more questions above, your company is a nonresident bidder. Please complete Parts C and D of this form.

To be completed by resident bidders

Part B

My company has maintained offices in Iowa during the past 3 years at the following addresses:

Dates: ____ / ____ / ____ to ____ / ____ / ____ Address: _____

City, State, Zip: _____

Dates: ____ / ____ / ____ to ____ / ____ / ____ Address: _____

City, State, Zip: _____

Dates: ____ / ____ / ____ to ____ / ____ / ____ Address: _____

You may attach additional sheet(s) if needed. City, State, Zip: _____

To be completed by non-resident bidders

Part C

1. Name of home state or foreign country reported to the Iowa Secretary of State:

2. Does your company's home state or foreign country offer preferences to resident bidders, resident labor force preferences or any other type of preference to bidders or laborers? Yes No

3. If you answered "Yes" to question 2, identify each preference offered by your company's home state or foreign country and the appropriate legal citation.

You may attach additional sheet(s) if needed.

To be completed by all bidders

Part D

I certify that the statements made on this document are true and complete to the best of my knowledge and I know that my failure to provide accurate and truthful information may be a reason to reject my bid.

Firm Name: _____

Signature: _____ Date: _____

You must submit the completed form to the governmental body requesting bids per 875 Iowa Administrative Code Chapter 156. This form has been approved by the Iowa Labor Commissioner.

Worksheet: Authorization to Transact Business

This worksheet may be used to help complete Part A of the Resident Bidder Status form. If at least one of the following describes your business, you are authorized to transact business in Iowa.

- Yes No My business is currently registered as a contractor with the Iowa Division of Labor.
- Yes No My business is a sole proprietorship and I am an Iowa resident for Iowa income tax purposes.
- Yes No My business is a general partnership or joint venture. More than 50 percent of the general partners or joint venture parties are residents of Iowa for Iowa income tax purposes.
- Yes No My business is an active corporation with the Iowa Secretary of State and has paid all fees required by the Secretary of State, has filed its most recent biennial report, and has not filed articles of dissolution.
- Yes No My business is a corporation whose articles of incorporation are filed in a state other than Iowa, the corporation has received a certificate of authority from the Iowa secretary of state, has filed its most recent biennial report with the secretary of state, and has neither received a certificate of withdrawal from the secretary of state nor had its authority revoked.
- Yes No My business is a limited liability partnership which has filed a statement of qualification in this state and the statement has not been canceled.
- Yes No My business is a limited liability partnership which has filed a statement of qualification in a state other than Iowa, has filed a statement of foreign qualification in Iowa and a statement of cancellation has not been filed.
- Yes No My business is a limited partnership or limited liability limited partnership which has filed a certificate of limited partnership in this state, and has not filed a statement of termination.
- Yes No My business is a limited partnership or a limited liability limited partnership whose certificate of limited partnership is filed in a state other than Iowa, the limited partnership or limited liability limited partnership has received notification from the Iowa secretary of state that the application for certificate of authority has been approved and no notice of cancellation has been filed by the limited partnership or the limited liability limited partnership.
- Yes No My business is a limited liability company whose certificate of organization is filed in Iowa and has not filed a statement of termination.
- Yes No My business is a limited liability company whose certificate of organization is filed in a state other than Iowa, has received a certificate of authority to transact business in Iowa and the certificate has not been revoked or canceled.

CONTRACT

This contract, made as of the ____ day of _____, 2023, by and between the City of Dyersville, Iowa, hereinafter called the Owner, and _____, hereinafter called the Contractor.

WITNESSETH:

That whereas the Owner intends to have constructed Bridge Deck Overlay – 1st Avenue over Bear Creek hereinafter called the Project, in accordance with the Plans, Specifications, Addenda and other Contract Documents prepared by WHKS & Co., Consulting Engineers and Planners, Mason City, IA.

Now, therefore, the Owner and Contractor for the considerations hereinafter set forth, agree as follows:

The Contractor agrees to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in an acceptable manner all work required for the construction of the Project, in strict compliance with the Contract Documents.

The Owner agrees to pay and the Contractor agrees to accept, in full payment for the performance of this contract, the contract amount of: _____ (\$ _____) in accordance with the provisions of the Contract Documents.

This Contract and all of the covenants hereof shall insure to the benefit of and be binding upon the Owner and the Contractor respectively and his/her partners, successors, assigns and legal representatives. Neither the Owner nor the Contractor shall have the right to assign, transfer or sublet his interest or obligations hereunder without written consent of the other party.

By virtue of statutory authority, preference will be given to Iowa domestic labor and products, provisions and coal produced in the State of Iowa.

IN WITNESS WHEREOF, the parties have made and executed this contract the day and year first written.

Contractor

By

City

State

ATTEST:

Mayor

City Clerk

Dyersville
City

IA
State

PERFORMANCE AND MAINTENANCE BOND

KNOWN BY ALL THESE PRESENTS, That we, the undersigned

_____ (Hereinafter called the "Principal")

of _____

a/an _____

duly authorized by the law to do business as a Construction Contractor in the State of Iowa and of _____ (hereinafter called the "Surety") a Corporation duly authorized to do a Surety business under the laws of the State of Iowa, are held and firmly bound unto City of Dyersville, IA (hereinafter called the "Obligee,") in the penal sum of

_____ (\$ _____), lawful money of the United States, for the payment of which well and truly to be made unto said Obligee, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, as follows:

The conditions of this obligation are such that, whereas on the ____ day of _____, 2023, the said Principal entered into a written agreement with said Obligee for the construction of Bridge Deck Overlay – 1st Avenue Over Bear Creek as set forth in detail in the Bid Announcement, Proposal, Plans, Specifications, and other related contract documents referred to in said Agreement, all of which are hereby made a part hereof as if written herein at length.

NOW, THEREFORE, if the said Principal shall well and truly perform and complete said project in strict accordance with said agreement, Bid Announcement, Proposal, Plans, Specifications, and related documents shall comply with all the requirements of the Laws of the State of Iowa, shall pay as they become due all just claims for work or requirements performed and materials furnished in connection with said Agreement, and shall defend, indemnify and save harmless said Obligee, against any and all liens, encumbrances, damages, claims, demands, expenses, costs and charges of every kind, including patent infringement claims arising out of or in relation to the performance of said work and the provisions of said Agreement, and shall guarantee the work against defects in workmanship and material during the construction and for two (2) years after the time of acceptance of the work, and make good such guarantee; then these presents shall be void; otherwise they shall remain in full force and effect.

This obligation is made for the use of said Obligee and also for use and benefit of all persons who may perform any work or labor or furnish any material in the execution of said Agreement.

The Principal and Sureties on this bond hereby agree to pay to all persons, firms, or corporations having contracts directly with the principal or with subcontractors all just claims due them for labor performed or materials furnished, in the performance of the contract on account of which this bond is given when the same are not satisfied out of the portion of the contract price which the public corporation retains until completion of the public improvement but the Principal and Sureties shall not be liable to said persons, firms, or corporations unless the claims of said claimants against said portion of the contract price shall have been established as provided by law.

Every Surety on this bond shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

1. To the extension of time to the Contractor in which to perform the contract.
2. To any change in the plans, specifications, or contract, when such change does not involve an increase of more than twenty percent (20%) of the total contract price, and shall be released only as to such excess increase.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same, shall in anywise 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 Agreement or to the work or to the specifications.

IN TESTIMONY WHEREOF, the parties hereunto have caused the execution hereof as of the _____ day of _____, 2023.

(SEAL)

ATTEST: _____

Principal

By: _____

Title: _____

(SEAL)

ATTEST: _____

Surety

By: _____

PAYMENT BOND

KNOWN BY ALL THESE PRESENTS, That we, the undersigned

_____ (Hereinafter called the "Principal")

of _____

a/an _____ duly authorized by the law to do business as a Construction Contractor in the State of Iowa and _____ of _____ (hereinafter called the "Surety") a Corporation duly authorized to do a Surety business under the laws of the State of Iowa, are held and firmly bound unto City of Dyersville, Iowa (hereinafter called the "Obligee,") in the penal sum _____ of (\$_____), lawful money of the United States, for the payment of which well and truly to be made unto said Obligee, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, as follows:

The conditions of this obligation are such that, whereas on the ___ day of _____, 2023, the said Principal entered into a written agreement with said Obligee for the construction of the Bridge Deck Overlay – 1st Avenue Over Bear Creek items as set forth in detail in the Bid Announcement, Proposal, Plans, Specifications, and other related contract documents referred to in said Agreement, all of which are hereby made a part hereof as if written herein at length.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, Subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by Subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said 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 thereunder or the specifications accompanying the same shall in any wise 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 or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five counterparts, each one of which shall be deemed an original, this the ___ day of _____, 2023.

(SEAL)

ATTEST: _____

Principal

By: _____

Title: _____

(SEAL)

ATTEST: _____

Surety

By: _____

**INDEX OF
GENERAL CONDITIONS**

	<u>Page</u>
Acceptance and Final Payment.....	22
Act of God	2
Addenda	4
Arbitration	8
Assignment of Contract	10
Award of Contract	3
Bidders Interested in More Than One Proposal.....	4
Bid Announcement	1
Bid Letting	3
Changes in the Work	18
Character of Workers.....	12
Contract.....	1
Contractor.....	1
Contractor's Right to Suspend or Terminate Contract.....	10
Contractor's Superintendence	9
Copies of Plans and Specifications Furnished.....	5
Correction of Work After Final Payment.....	22
Crossing Utilities	17
Cutting and Patching.....	12
Delivery of Proposals	3
Detailed Breakdown of Contract Amount	19
Dimensions	5
Discrepancies.....	3
Discrepancies in Plans	5
Discrepancies in Surveys	7
Engineer	1
Engineer's Action on a Request For Payment	19
Engineer's Decisions	8
Engineer's Responsibility and Authority	8
Equipment Approval Data.....	6
Errors.....	4
Estimate of Quantities.....	4
Examination of Completed Work.....	9
Examination of Contract Documents and Visit to Site	3
Extension of Contract Time	18
Extra Work.....	18
Form of Proposal	3
Guarantee	13
Insurance.....	14
Intent of Plans and Specifications	5

	<u>Page</u>
Interest on Unpaid Requests for Payment	20
Interpretation of Documents	3
Lands by Contractor.....	9
Lands by Owner.....	9
Laws to be Observed.....	17
Maintenance Bond (definition).....	2
Maintenance Bond.....	16
Manufacturer's Directions	12
Materials Furnished by the Contractor	12
Materials Furnished by the Owner	12
Models.....	5
Modifications	3
No Waiver of Legal Rights	22
Notice to Proceed	18
Observation of Work	9
Oral Agreements.....	11
Owner.....	1
Owner's Action on an Approved Request for Payment	20
Owner's Right to Correct Deficiencies.....	10
Owner's Right to Terminate Contract and Complete the Work	10
Owner's Right to Withhold Payment of an Approved Request for Payment.....	20
Ownership of Plans and Specifications.....	5
Patents and Royalties.....	16
Payment Bond (definition)	2
Payment Bond	16
Payments for Extra Work.....	21
Payment for Rejected Work and Materials.....	21
Payment for Samples and Testing of Materials	22
Payment for Work Terminated by the Contractor	21
Payment for Uncorrected Work.....	20
Payment for Work by the Owner	21
Payment for Work by the Owner Following His/Her Termination of the Contract.....	21
Payment for Work Suspended by the Owner.....	21
Performance Bond (definition).....	1
Performance Bond.....	16
Permits	16
Plans.....	2
Plans and Specifications at Job Site	5
Preparing the Proposal	4
Private and Public Property	9
Progress Payments.....	19

	<u>Page</u>
Proposal	1
Proposal Guaranty	4
Public Safety and Convenience	17
Quality of Equipment and Materials	6
Rejected Work and Materials	12
Removal of Construction Equipment, Tools and Supplies	10
Resident Observation	9
Responsibility of the Contractor.....	20
Restoration of Site.....	13
Rights of Various Interests.....	11
Samples	5
Sanitary Provisions	17
Schedule of Completion.....	18
Separate Contracts	11
Shop Drawings.....	5
Specifications	2
Storage of Materials.....	12
Subcontractor.....	1
Subcontracts	11
Surety	2
Surveys	7
Suspension of Work.....	8
Suspension of Work by Owner	10
Termination of Contractor's Responsibility.....	22
Use of Completed Portions.....	18
Use of Explosives	17
Warning Signs and Barricades.....	17
Withdrawal	3
Work During an Emergency	11
Working Day.....	2
Written Notice.....	2

GENERAL CONDITIONS

DEFINITIONS

1.1 **Contract** is the agreement covering the performance of the work described in the Contract Documents including all supplemental agreements thereto and all general and special provisions pertaining to the work or materials therefore. The contract includes the Contract Documents listed below. In the event any provision of one Contract Document conflicts with the provision of another Contract Document, the provision in that Contract Document first listed shall govern.

- a. Contract
- b. Addenda to Contract Documents
- c. Other Legal and Procedural Documents
- d. Proposal
- e. Bid Announcement
- f. Special Provisions
- g. Detailed Specifications
- h. Plans
- i. General Conditions
- j. Performance and Maintenance Bond
- k. Proposal Guaranty

1.2 **Engineer** is the Engineer named in the Contract Documents or his/her representative duly authorized to act for the Engineer.

1.3 **Owner** is the Owner named in the Contract Documents.

1.4 **Contractor** is the individual, firm, partnership or corporation, and his/her, their, or its heirs, executors, administrators, successors and assigns, or the lawful agent of any such individual, firm, partnership, covenant or corporation, or his/her, their or its surety under the contract bond, constituting one of the principals to the Contract and undertaking to perform the work herein specified. Where any pronoun is used, as referring to the work "Contractor" it shall mean the Contractor as defined above.

1.5 **Subcontractor** is any person, firm or corporation with a direct contract with the Contractor who acts for or on behalf of the Contractor in executing any part of the Contract, but does not include one who only furnishes material.

1.6 **Proposal** is the offer of a Bidder to perform the work described by the Contract Documents when made out and submitted on the prescribed Proposal Form, properly signed and guaranteed.

1.7 **Bid Announcement** is the Notice of Hearing and Letting or Advertisement for Bids.

1.8 **Performance Bond** is the approved form of security furnished by the Contractor and his/her Surety as a guaranty of good faith on the part of the Contractor to execute the work in accordance with the terms of the Contract.

1.9 **Maintenance Bond** is the approved form of security furnished by the Contractor and his/her Surety as a maintenance guaranty on the part of the Contractor furnished in accordance with the applicable statutes or as specifically required by the terms of the Contract or Contract Documents.

1.10 **Payment Bond** is the approved form of security furnished by the Contractor and his/her surety as a guaranty of payment to subcontractors and suppliers in accordance with the applicable statutes.

1.11 **Surety** is the person, firm or corporation who executes the Contractor's required bonds.

1.12 **Specifications** shall mean the Legal and Procedural Documents, General Conditions of the Contract, together with the modifications thereof, and the Detailed Specification Requirements, with all addenda thereto.

1.13 **Plans** shall mean the detailed construction drawings or sketches furnished to the Contractor.

1.14 **Written Notice** shall be considered as served when delivered in person or sent by mail to the individual, firm or corporation or to the last business address of such known to him/her who serves the notice.

- a. **Change of Address:** It shall be the duty of each party to advise the other parties to the Contract as to any change in his/her business address until completion of Contract.

1.15 **Act of God** means an earthquake, flood, cyclone or other cataclysmic phenomenon of nature. Rain, wind, flood or other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God and no reparation shall be made to the Contractor for damages to the work resulting therefrom.

1.16 **Working Day** is any day the Contractor can work six hours or more, excluding Saturday, Sunday or Legal Holidays.

INFORMATION FOR BIDDERS

- 2.1 **Form of Proposal:** Each Proposal shall be made on a form prepared by the Engineer and included as one of the Contract Documents. The Proposal shall be submitted in a sealed envelope bearing the title of the work and the name of the Bidder.
- 2.2 **Discrepancies:** In case of a difference between the unit price amount of a bid item and the extension total amount of a bid item, the unit price amount shall govern.
- 2.3 **Modifications:** Proposals shall not contain any modifications of the work to be done. Alternate proposals will not be considered unless called for. Oral proposals or modifications will not be considered. Facsimile proposals will not be considered, but modifications by facsimile of proposals already submitted will be considered if received prior to the time set for the bid opening.
- 2.4 **Examination of Contract Documents And Visit To Site:** Before submitting a Proposal, bidders shall carefully examine the plans, read the specifications and the other Contract Documents, visit the site of work and fully inform themselves as to all existing conditions and limitations.
- 2.5 **Delivery of Proposals:** Proposals shall be delivered by the time and to the place stipulated in the Bid Announcement. It is the sole responsibility of the bidder to see that his/her Proposal is received in proper time. Any Proposal received after the scheduled closing time for receipt of Proposals shall be returned to the bidder unopened.
- 2.6 **Withdrawal:** Any bidder may withdraw his/her Proposal, either personally, by facsimile or written request, at any time prior to the scheduled closing time for receipt of Proposals.
- 2.7 **Bid Letting:** Proposals will be opened and publicly read aloud at the time and place set forth in the Bid Announcement.
- 2.8 **Award of Contract:** The Contract will be awarded to the lowest, responsive, responsible bidder complying with these instructions and with the Bid Announcement. The Owner reserves the right to reject any or all Proposals or to waive any formality or technicality in any Proposal in the interest of the Owner. No bidder may withdraw his/her Proposal for a period of 30 days after the date of opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the bidder.
- 2.9 **Interpretation of Documents:** If any person contemplating submitting a Proposal is in doubt as to the true meaning of any part of the Plans, Specifications or other Contract Documents, or finds discrepancies in or omissions from the Plans or Specifications, he/she shall submit to the Engineer a request for an interpretation or correction thereof. Any interpretation or correction of the documents will be made only by Addenda duly issued and copies of the Addenda will be delivered to each person receiving a set of the Contract Documents. Neither the Owner nor the Engineer will be responsible for any other explanations or interpretations of the Contract Documents.

2.10 **Addenda:** All addenda issued during the time of bidding or forming a part of the Contract Documents issued to the bidder for the preparation of his/her Proposal, shall be covered in the Proposal and shall be made a part of the Contract. Receipt of each addendum shall be acknowledged on the Proposal Form.

2.11 **Bidders Interested in More Than One Proposal:** No person, firm, or corporation shall be allowed to make, file or to be interested in more than one Proposal for the same work, unless alternate Proposals are called for. A person, firm, or corporation who has submitted a subproposal to a bidder or who has quoted prices on materials to a bidder is not disqualified from submitting a subproposal or quoting prices to other bidders.

2.12 **Errors:** To insure against accidental errors, the Contractor shall read carefully the contract documents before preparing his/her Proposal.

2.13 **Proposal Guaranty:** Each Proposal shall be accompanied by a guaranty of the form and in the amount indicated in the Contract Documents.

2.14 **Preparing the Proposal:** In preparing the Proposal, the bidder shall specify the unit prices, written legibly in ink or typewritten, at which he/she proposes to do each item of work. The unit price shall be stated in figures and the total amount of each item shall be computed by the bidder based on the unit prices bid for the quantities given in the Proposal.

2.15 **Estimate of Quantities:** The estimate of quantities listed in the Proposal is approximate only and is to be used only as a basis of comparing bids. Any later change in the quantities will not affect the previous selection of the low bidder and any change in quantities less than twenty percent (20%), or as provided by law, shall not require the approval of the Contractor.

DRAWING, SPECIFICATIONS AND RELATED DATA

3.1 **Intent of Plans and Specifications:** The intent of the Plans and Specifications is that the Contractor furnish all labor, materials, equipment and transportation necessary for the proper execution of the work, unless specifically noted otherwise. The Contractor shall do all the work shown on the Plans and described in the Specifications and all incidental work considered necessary to complete the project in a substantial and acceptable manner and to fully complete the work or improvements ready for use, occupancy and operation by the Owner.

3.2 **Discrepancies in Plans:** Any discrepancies found between the Plans and Specifications and site conditions or any errors or omissions in the Plans or Specifications shall be immediately reported to the Engineer. The Engineer shall promptly correct such error or omission in writing. Any work performed by the Contractor after discovery of such discrepancies, errors or omissions shall be done at the Contractor's risk.

3.3 **Copies of Plans and Specifications Furnished:** Except as provided for otherwise, all required copies of Plans and Specifications necessary for the execution of the work shall be furnished to the Contractor.

3.4 **Plans and Specifications at Job Site:** One complete set of all Plans and Specifications shall be maintained at the job site and shall be available to the Engineer at all times.

3.5 **Ownership of Plans and Specifications:** All original or duplicated Plans and Specifications and other data prepared by the Engineer shall remain the property of the Engineer.

3.6 **Dimensions:** Listed dimensions on the Plans shall be used in preference to scaling the Plans. Where the work of the Contractor is affected by finish dimensions, these dimensions shall be determined by the Contractor at the site and he/she shall assume the responsibility therefore.

3.7 **Models:** All models prepared for this work shall become the property of the Owner at the completion of the work.

3.8 **Samples:** Samples called for in the Specifications or required by the Engineer shall be furnished by the Contractor. Samples shall be furnished so as not to delay fabrication and to allow the Engineer reasonable time for the consideration of the samples submitted.

3.9 **Shop Drawings:** The Contractor shall provide shop drawings, schedules and such other drawings and samples as may be necessary for the prosecution of the work in the shop and in the field. Drawings shall include, but not necessarily be limited to, all equipment, materials, machinery, piping layouts, electrical line drawings, structural steel, reinforcement, and apparatus required to be furnished under this Contract.

Reviews by the Engineer of Shop Drawings and Samples for any material, apparatus, devices, and layouts shall not relieve the Contractor from the responsibility of furnishing same of proper dimension, size, quantity, quality, and all performance characteristics to efficiently perform the requirements and intent of the Contract Documents. Such review shall not relieve the Contractor from responsibility for errors of any sort on the Shop Drawings. If the Shop Drawings or Samples deviate from the Contract Documents, the Contractor shall advise the Engineer of the deviation in writing accompanying the Shop Drawings or Samples, including the reasons for the deviation.

Shop Drawings shall be submitted according to the following schedule:

- a. A minimum of six copies shall be submitted at least thirty (30) days before the materials indicated thereon are to be needed, or earlier if required to prevent delay of work.
- b. The Engineer will return all Samples or all but three Shop Drawing copies to the Contractor marked with corrections and changes.
- c. The Contractor shall then correct the Shop Drawings or Samples to conform to the corrections and changes requested by the Engineer.
- d. Following completion of such corrections and changes, the Contractor shall furnish the Engineer three copies of the Shop Drawings conforming to the required corrections and changes.
- e. One copy of all Shop Drawings used shall be kept in good condition at the job site by the Contractor.
- f. Upon submittal of corrected Shop Drawings, the Contractor shall also furnish the Engineer with two copies of operating and maintenance manuals, spare parts catalogs and equipment maintenance data sheets with nameplate data for each item of mechanical, electrical and process equipment and the source of procurement of spare parts.

3.10 Quality of Equipment and Materials: In order to establish standards of quality, the Engineer has, in the detailed Specifications, referred to certain products by name and catalog number. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design.

- a. The Contractor shall furnish the complete list of proposed desired substitutions prior to signing of the Contract, together with such engineering and catalog data as the Engineer may require.
- b. The Contractor shall abide by the Engineer's judgment when proposed substitute materials or items of equipment are judged to be unacceptable and shall furnish the specified material or item of equipment in such case. All proposals for substitutions shall be submitted in writing by the General Contractor and not by individual trades or material suppliers. The Engineer will approve or disapprove proposed substitutions in writing within a reasonable time. No substitute materials or equipment shall be used unless approved in writing.

3.11 Equipment Approval Data: The Contractor shall furnish one (1) copy of complete catalog data for every manufactured item of equipment and all components to be used in the work, including specific performance data, material description, rating, capacity, working pressure, material gage or thickness, brand name, catalog number and general type.

- a. The submittal shall be compiled by the Contractor and approved by the Engineer before the equipment is ordered.

- b. Each data sheet or catalog in the submittal shall be indexed according to specification section and paragraph for easy reference.
- c. After written approval, this submittal shall become a part of the Contract and may not be deviated from except upon written approval of the Engineer.
- d. Catalog data for equipment approved by the Engineer does not in any case supersede the Engineer's Contract Documents. The approval of the Engineer shall not relieve the Contractor from responsibility for deviations from Plans or Specifications, unless he/she has in writing called the Engineer's attention to such items submitted. The Contractor shall check the work described by the catalog data with the Engineer's Contract Documents for deviations and errors.
- e. It shall be the responsibility of the Contractor to insure that items to be furnished fit the space available. He/she shall make necessary field measurements to ascertain space requirements, including those for connections, and shall order such sizes and shapes of equipment that the final installation shall suit the true intent and meaning of the Plans and Specifications.
- f. Where equipment requiring different arrangement of connections from those shown is approved, it shall be the responsibility of the Contractor to install the equipment to operate properly and in harmony with the intent of the Plans and Specifications and to make all changes in the work required by the different arrangement of connections.

3.12 **Surveys:** Unless otherwise specified, the Owner shall establish all base lines for the location of the principal component parts of the work together with a suitable number of grade stakes, slope stakes and bench marks adjacent to the work. Based upon the information provided by the Owner, the Contractor shall develop and set other necessary construction stakes, including batter boards, stakes for individual pile locations and other working points. The Contractor shall have the responsibility to carefully preserve bench marks, reference points and stakes; and, in the case of destruction thereof by the Contractor or resulting from his/her negligence, the Contractor shall be charged with the expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the unnecessary loss or disturbance of such bench marks, reference points and stakes.

3.13 **Discrepancies in Surveys:** If the Contractor, in the course of the work finds any discrepancy in the layout of the work as given by the grade stakes, slope stakes or other references given for construction procedures, he/she shall immediately inform the Engineer of such discrepancy. The Engineer shall promptly verify the same and shall make corrections where they are required. Any work performed by the Contractor after such discovery, until authorized, shall be accomplished at the Contractor's risk.

ENGINEER-OWNER-CONTRACTOR RELATIONS

4.1 **Engineer's Responsibility and Authority:** The Engineer shall be the Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of the Engineer as the Owner's representative during construction are set forth in Sections 1 through 8 of these General Conditions and shall not be extended without written consent of the Owner and Engineer.

The Engineer shall not be responsible for the construction means, methods, techniques, sequences or procedures or the health and safety precautions and programs incident thereto, and he/she will not be responsible for the Contractor's failure to perform the work in accordance with the Contract Documents.

4.2 **Engineer's Decisions:** All claims of the Owner or the Contractor shall be presented to the Engineer for decision, which shall be made in writing within a reasonable time. All decisions of the Engineer shall be final, except in cases where time and/or financial considerations are involved. In these cases, disputed decisions shall be subject to mediation or arbitration.

4.3 **Suspension of Work:** The Owner shall have the authority to suspend the work, wholly or in part, for such period or periods as he/she may deem necessary due to unsuitable weather, or such other conditions as are considered unfavorable for prosecution of the work, or failure on the part of the Contractor to carry out the provisions of the Contract or to supply materials meeting the requirements of the Specifications. The Contractor shall not suspend operation without the Owner's permission.

4.4 **Arbitration:** Should there be any dispute or any questioned decision of the Engineer which is subject to arbitration, it shall be promptly submitted to arbitration upon demand by either party to the dispute. The Contractor shall not delay the work because arbitration proceedings are pending unless he/she has written permission from the Engineer to do so and such delay shall not extend beyond the time when the arbitrators shall have opportunity to determine whether the work shall continue or be suspended pending decision by the arbitrators of such a dispute. Any demand for arbitration shall be in writing and shall be delivered to the Engineer and any adverse party either by personal delivery or by registered mail addressed to the last known address of each within twenty (20) days of receipt of the Engineer's decision, and in no event after final payment has been made and accepted, subject however, to any express stipulation to the contrary in the Contract Documents. Should the Engineer fail within a reasonable period to make a decision, a demand for arbitration may then be made as if the Engineer's decision had been rendered against the party demanding arbitration.

- a. No one shall be qualified to act as an arbitrator who has, directly or indirectly, any financial interest in the Contract or who has any business or family relationship with the Owner, the Contractor, or the Engineer. Each arbitrator selected shall be qualified by experience and knowledge of the work involved in the matter to be submitted to arbitration.
- b. Arbitration shall be in accordance with the procedure and standards of The American Arbitration Association and/or the applicable State Statutes.

In lieu of arbitration, if both parties agree, the dispute may be submitted for mediation.

4.5 **Observation of Work:** The Contractor agrees to complete the construction in conformity with

the contract documents regardless of the extent or character of the observation. All materials and each part or detail of the work shall be subject at all times to construction observation. Such observation may include mill, plant or shop observation and any material furnished under this contract is subject to such observation. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed observation.

4.6 Resident Observation: The Resident Engineer or Resident Observer shall observe the work being performed. The primary purpose of this function is to help assure the Contractor's compliance with the plans and specifications and does not guarantee the Contractor's performance nor does it relieve the Contractor of his/her responsibility to construct the work in accordance with the Plans and Specifications. The Observer's duties do not include construction means, methods or procedures used by the Contractor. The Contractor is solely responsible for construction means, methods, procedures and job-site safety.

4.7 Examination of Completed Work: If requested by the Engineer, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed shall be paid for as Extra work. Should the work so exposed or examined prove unacceptable, the uncovering, removing and replacing shall be at the Contractor's expense.

4.8 Contractor's Superintendence: A qualified superintendent shall be on the project site and shall give efficient supervision to the work until its completion. The superintendent shall have full authority to act on behalf of the Contractor and all directions given to the superintendent shall be considered given to the Contractor. The Engineer's instructions shall be confirmed in writing upon written request from the Contractor.

4.9 Lands by Owner: The Owner shall provide the lands shown on the Plans upon which the work under the Contract is to be performed and to be used for rights-of-way for access. Any delay in furnishing these lands by the Owner shall be deemed proper cause for adjustment in the contract amount and in the time of completion.

4.10 Lands by Contractor: Any additional land and/or access thereto not shown on the Plans that may be required for temporary construction facilities or for storage of materials shall be provided by the Contractor with no liability to the Owner. The Contractor shall confine his/her apparatus, storage of materials and operation of his/her workmen to those areas described in the Plans and Specifications and to such additional areas which he/she may provide as approved by the Engineer.

4.11 Private and Public Property: The Contractor shall not enter upon private property for any purpose without obtaining permission. The Contractor shall be responsible for the preservation of all public property, trees, monuments, etc. along and adjacent to the project area, and shall use every precaution necessary to prevent damage or injury thereto. The Contractor shall notify all public and private utilities and use suitable precautions to prevent damage to pipes, conduits, and other underground structures and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until so directed. The Contractor shall bear the cost of repair for all damage caused by his/her negligence.

4.12 **Assignment of Contract:** Neither the Contractor nor the Owner shall sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his/her right, title or interest therein, or his/her obligations thereunder, without written consent of the other party.

4.13 **Removal of Construction Equipment, Tools and Supplies:** At the termination of the Contract and before acceptance of the work by the Owner, the Contractor shall remove all equipment, tools and supplies from the property of the Owner. Should the Contractor fail to remove such equipment, tools, and supplies, the Owner shall have the right to remove them.

4.14 **Suspension of Work by Owner:** The work or any portion thereof may be suspended at any time by the Owner provided that he/she gives the Contractor five (5) days' written notice of suspension and sets forth the date on which work is to be resumed. The Contractor shall resume the work upon written notice from the Owner and within ten (10) days after the date set forth in the notice of suspension. If the Owner does not give written notice to resume work within ten (10) days of the date fixed in the notice of suspension, the Contractor may abandon that portion of the work so suspended and shall be entitled to payment in accordance with Paragraph 8.11.

4.15 **Owner's Right to Correct Deficiencies:** Upon failure of the Contractor to perform the work in accordance with the Contract Documents, including any requirements with respect to the Schedule of Completion, the Owner may, after five (5) days' written notice to the Contractor, correct such deficiencies, at the Contractor's expense, without prejudice to any other remedy he/she may have.

4.16 **Owner's Right to Terminate Contract and Complete the Work:** The Owner shall have the right to terminate the employment of the Contractor after giving ten (10) days' written notice of termination to the Contractor in the event of any default by the Contractor and upon receiving written notice from the Engineer certifying cause for such action. In the event of such termination, the Owner may take possession of the work and of all materials, tools and equipment thereon, and may finish the work by whatever method and means he/she may select. It shall be considered a default by the Contractor whenever he/she shall:

- a. Declare bankruptcy, become insolvent, or assign his/her assets for the benefit of his/her creditors, or
- b. Disregard or violate important provisions of the Contract Documents or Engineer's instructions, or fail to prosecute the work according to the agreed Schedule of Completion, including extensions thereof, or
- c. Fail to provide a qualified superintendent, competent workmen or subcontractors, or proper materials, or fail to make prompt payment therefor.

4.17 **Contractor's Right to Suspend Work or Terminate Contract:** The Contractor may suspend work or terminate Contract upon ten (10) days' written notice to the Owner and the Engineer for the following reason:

- a. If an order of any court or other public authority caused the work to be stopped or suspended for a period of ninety (90) days through no act or fault of the Contractor or his/her employees.

4.18 **Rights of Various Interests:** Wherever work being done by the Owner's forces or by other contractors is contiguous to work covered by this Contract, the respective rights of the various interests involved shall be established by the Engineer to secure the completion of the various portions of the work in general harmony.

4.19 **Separate Contracts:** The Owner may let other contracts requiring coordination of the work of the Contractor. The Contractor shall cooperate with other Contractors with regard to storage of materials and execution of their work. It shall be the Contractor's responsibility to inspect all work by other Contractors affecting his/her work and to report to the Engineer any irregularities which will not permit him/her to complete his work in a satisfactory manner. Failure to notify the Engineer of such irregularities shall indicate the work of the other Contractors has been satisfactorily completed to receive this work.

4.20 **Subcontracts:** The Contractor shall submit to the Owner the names of the subcontractors proposed for the work. Subcontractors may not be changed except with the approval of the Owner. The Contractor is responsible to the Owner for the acts and omissions of his/her subcontractors, and of their direct and indirect employees, to the same extent as he/she is responsible for the acts and omissions of his/her employees. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the Owner. The Contractor shall bind every subcontractor by the terms of the Contract Documents.

4.21 **Work During an Emergency:** The Contractor shall perform any work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases, he/she shall notify the Engineer of the emergency as soon as practicable, but he/she shall not wait for instructions before proceeding to properly protect both life and property.

4.22 **Oral Agreements:** No oral order, objection, claim or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents, nor shall any of the provisions of the Contract Documents be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed upon waiver or modification in writing.

MATERIALS AND WORKMANSHIP

5.1 **Materials Furnished by the Contractor:** All materials used in the work shall meet the requirements of the respective Specifications and no material shall be used until it has been approved by the Engineer. All materials not otherwise specifically indicated shall be furnished by the Contractor.

5.2 **Materials Furnished by the Owner:** Materials specifically indicated shall be furnished by the Owner. The fact that the Owner is to furnish material is conclusive evidence of its acceptability for the purpose intended and the Contractor may continue to use it until otherwise directed. If the Contractor discovers any defect in material furnished by the Owner, he/she shall notify the Engineer. The Contractor shall be responsible for material loss or damage after receipt of Owner-furnished material.

5.3 **Storage of Materials:** Materials shall be so stored as to insure the preservation of their quality and fitness for the work. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces and not on the ground and/or they shall be placed under cover. Stored materials shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the Owner or leasee of the property.

5.4 **Character of Workers:** The Contractor shall at all times be responsible for the conduct and discipline of his/her employees and/or any subcontractor or persons employed by subcontractors. All workers shall have sufficient knowledge, skill, and experience to properly perform the work assigned to them.

5.5 **Rejected Work and Materials:** All materials which do not conform to the requirements of the Contract Documents, are not equal to samples approved by the Engineer, or are, in any way, unsatisfactory or unsuited to the purpose for which they are intended, shall be rejected. Any defective work whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, shall be removed within ten (10) days after written notice is given by the Engineer and the work shall be re-executed by the Contractor. The fact that the Engineer may have previously overlooked such defective work shall not constitute an acceptance of any part of it.

- a. Should the Contractor fail to remove rejected work or materials within ten (10) days after written notice to do so, the Owner may remove and store the materials.
- b. Correction of Faulty Work After Final Payment shall be in accordance with Paragraph 8.19.

5.6 **Manufacturer's Directions:** Manufactured articles, material and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned by the Contractor as directed by the Manufacturer unless specified to the contrary.

5.7 **Cutting and Patching:** The Contractor shall do all necessary cutting and patching of the work that may be required to properly receive the work of the various trades or as required by the contract documents to complete the structure. The Contractor shall restore all such cut or patched work as directed by the Engineer.

5.8 **Restoration of Site:** The Contractor shall remove from the Owner's property and from all public and private property all temporary structures, rubbish, and waste materials resulting from the construction operations. The Contractor shall remove all surplus materials leaving the site smooth, clean and true to line and grade. Upon failure to do so within seventy-two (72) hours after request by the Engineer, the work may be done by the Owner and the cost thereof be charged to the Contractor and deducted from the final payment.

5.9 **Guarantee:** The Contractor shall guarantee all work and material against all defects for the period specified in the Bond Form or Special Provisions. The Contractor shall repair or replace any such defective work and/or material to conform to the provisions of this Contract and without expense to the Owner within (10) days after notification in writing by the Owner of such defective work or material. If the Contractor shall not have made such repairs or replacements or have made arrangements for the correction thereof within the period specified above, the Owner shall do so and shall charge the cost of same to the Contractor. The Contractor shall perform the work so as to cause the Owner a minimum of inconvenience and interruption of services.

- | | | | |
|----|---------------------------------------|----|--------|
| 5. | Fire Damage Limit (any one fire) | \$ | 50,000 |
| 6. | Medical Damage Limit (any one person) | \$ | 5,000 |

The above insurance must include the following features:

1. Coverage for all premises and operations.
 2. Personal and Advertising injury.
 3. Operations by independent contractors or subcontractors.
 4. Coverage for demolition of any building or structure, collapse, explosion, blasting, excavation, and damage to property below the surface of the ground (XCU coverage).
 5. Inclusion of the Owner and Engineer as an additional insured on the Commercial General Liability Insurance on a primary and non-contributory basis.
 6. Waiver of Subrogation in favor of the Owner and Engineer.
 7. If the policy is a claims-made policy, coverage shall remain in effect for a period of two (2) years after the project is complete.
 8. The policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations. Pollution coverage limits shall be \$1,000,000.
- c. Automobile Liability Insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit of \$1,000,000 per accident covering claims for damages because of bodily injury, personal injury, or damage to property which arise out of operations in performance of the contract.
- d. Railroad Protective Liability Insurance if required by the Owner in the Special Provisions or by an affected railroad. The Contractor shall procure and maintain Railroad Protective Liability Insurance naming the railroad as the insured with minimum limit for bodily injury and property damage liability of \$2,000,000 per occurrence, \$6,000,000 aggregate, or with such other limits as the railroad shall require. The original of said Policy shall be furnished to the railroad and a certified copy of said Policy shall be furnished to the Owner prior to any construction or entry upon the railroad premises by the Contractor.
- e. Umbrella/Excess Insurance - At the Contractor's option, the limits specified in Section 6.1, a, b and c may be satisfied with a combination of primary and Umbrella/Excess Insurance. Umbrella Insurance shall be in the minimum amount of \$2,000,000.

- f. **Builder's Risk Insurance (Property Insurance)** - Unless otherwise provided in the Special Provisions, the Contractor shall purchase and maintain Builder's Risk Insurance in the amount of the initial contract amount. Such insurance shall allow for partial utilization of the work by the Owner and shall be maintained until final acceptance of the work by the Owner.

Builder's Risk Insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, flood and earthquake, theft, vandalism, malicious mischief, collapse, falsework, temporary buildings, debris removal, materials and equipment in transit, materials and equipment stored at the site or another location approved by the Owner.

Testing and startup services shall be included or the Contractor shall notify the Owner in writing forty eight (48) hours prior to testing or startup so the Owner can ensure that Boiler and Machinery coverage is in place.

- g. **Proof of Insurance** - The Contractor shall, prior to the Owner's approval and execution of the contract, provide to the Owner a certificate(s) of insurance documenting all required insurance coverages as required in this Section 6.1, utilizing the ACORD certificate form, or equivalent form.

Copies of additional insured endorsements and waivers of subrogation shall also be provided with the certificate of insurance.

6.3 Performance Bond: The Contractor shall, at the time of execution of the Contract, furnish a corporate surety bond in the sum equal to the Contract Amount. The form of the bond shall be as the Owner may approve and with a Surety Company authorized to do business in the State where the work is located.

6.4 Maintenance Bond: The Contractor shall, at the time of execution of the Contract, furnish a corporate surety bond whereby the Contractor agrees to maintain the work for the time specified in the Contract Documents. The maintenance shall cover all repairs and replacements made necessary by defects in materials and workmanship. The form of the bond shall be as the Owner may approve and with a Surety Company authorized to do business in the State where the work is located.

6.5 Payment Bond: When required in the Contract Documents, the Contractor shall, at the time of execution of the contract, furnish a corporate surety bond in the sum equal to the Contract Amount. The form of the bond shall be as the Owner may approve and with a Surety Company authorized to do business in the State where the work is located.

6.6 Patents and Royalties: If any design, device, material or process covered by letters of patent or copyright is used by the Contractor, he/she shall provide for such use by legal agreement with the owner of the patent or a duly authorized licensee of such owner and shall save harmless the Owner from any and all loss or expense on account thereof, including its use by the Owner.

6.7 Permits: All temporary permits and licenses necessary for the prosecution of the work shall be secured by the Contractor.

6.8 Laws to be Observed: The Contractor shall give all notices and shall comply with all applicable Federal, State and local laws, ordinances and regulations in any manner affecting the conduct of the work; with all such orders and decrees as exist or may be enacted by bodies or tribunals having any jurisdiction or authority over the work; and shall indemnify and save harmless the Owner against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decree.

6.9 Warning Signs and Barricades: The Contractor shall provide adequate signs, barricades, fencing, lights and watchperson and take all necessary precautions for the protection of the work and the safety of the public.

6.10 Public Safety and Convenience: The Contractor shall at all times conduct the work so as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work, and to insure the protection of persons and property in a manner satisfactory to the Engineer. No road or street shall be closed to the public except with the permission of the Engineer and proper governmental authority. Fire hydrants on or adjacent to the work shall be kept accessible to fire-fighting equipment at all times. Temporary provisions shall be made by the Contractor to insure the use of sidewalks and the proper functioning of all gutters, sewer inlets, drainage ditches and irrigation ditches, which shall not be obstructed except as approved by the Engineer.

6.11 Crossing Utilities: When new construction crosses highways, railroads, streets or utilities under the jurisdiction of State, County, City or other public agency, public utility or private entity, the Contractor shall secure written permission from the proper authority before executing such new construction. A copy of this written permission must be filed with the Owner before any work is done. The Contractor will be required to furnish a release from the proper authority before final acceptance of the work.

6.12 Sanitary Provisions: The Contractor shall provide and maintain such sanitary accommodations for the use of his/her employees and those of subcontractors as may be necessary to comply with local and State health requirements and regulations.

6.13 Use of Explosives: Blasting will not be permitted in any case without specific approval of the Owner and then only under such restrictions as may be required by the proper authorities and only when the Contractor has adequate blasting insurance in force.

When the use of explosives is necessary for the prosecution of the work, the Contractor shall use the utmost care so as not to endanger life or property, cause slides or disturb the materials outside the neat lines of the cross section.

Blasting shall be completed in the vicinity of new structures before construction on such structures is undertaken. All explosives shall be stored in a secure manner and place in compliance with local laws and ordinances and all such storage places shall be clearly marked "Dangerous - Explosives". No explosive shall be left in an unprotected manner along or adjacent to any existing roadway or public place.

PROGRESS AND COMPLETION OF THE WORK

7.1 **Notice to Proceed:** Following the execution of the Contract by the Owner, written Notice to Proceed with the work shall be given to the Contractor. The Contractor shall begin and shall prosecute the work regularly and uninterruptedly thereafter (unless otherwise directed in writing by the Owner) with such effort as to secure the completion of the work within the time stated in the Contract Documents.

7.2 **Schedule of Completion:** The Contractor shall submit, at such times as may be reasonably requested by the Engineer, schedules which shall show the order in which the Contractor proposes to carry on the work. Said schedules shall include dates at which the Contractor will start the several parts of work and estimated dates of completion of the several parts.

7.3 **Changes in the Work:** The Owner may, as the need arises, order changes in the work through additions, deletions or modifications without invalidating the Contract. Compensation and time of completion affected by the change shall be adjusted at the time of ordering such changes.

7.4 **Extra Work:** New and unforeseen items of work found to be necessary and which cannot be covered by any item or combination of items for which there is a Contract price, shall be classed as Extra Work. The Contractor shall do such Extra Work and furnish such materials as may be required for the proper completion or construction of the whole work contemplated upon written order from the Engineer. In the absence of such written order, no claim for Extra Work shall be considered. Extra Work shall be performed in accordance with these Specifications where applicable and work not covered by the Specifications or Special Provisions shall be done in accordance with the best practice as approved by the Engineer. Extra Work required in an emergency to protect life and property shall be performed by the Contractor as required.

7.5 **Extension of Contract Time:** A delay beyond the Contractor's control occasioned by an Act of God, or act or omission on the part of the Owner or by strikes, lockouts, fire, etc. may entitle the Contractor to an extension of time in which to complete the work as determined by the Engineer. The Contractor shall immediately give written notice to the Engineer and Owner of the cause of such delay.

7.6 **Use of Completed Portions:** The Owner shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding that the time for completing the entire work or such portions may not have expired. Taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the completion of uncompleted work or causes refinishing of completed work, the Contractor shall be entitled to such extra compensation or extension of time or both, as the Engineer may determine.

MEASUREMENT AND PAYMENT

8.1 **Detailed Breakdown of Contract Amount:** Except in cases where unit prices form the basis for payment under the Contract, the Contractor shall submit a complete breakdown of the Contract Amount showing the value assigned to each part of the work. Upon approval of the breakdown of the Contract Amount by the Engineer, it shall be used as the basis for all Requests for Payment.

8.2 **Progress Payments:** Where the project financing permits, the Contractor shall be entitled to monthly progress payments corresponding to the stage of the work. Progress estimates will be prepared by the Contractor not later than thirty (30) days after commencing work and every thirty (30) days thereafter, if so entitled, for the duration of the construction. These progress payments shall be based upon an approximate estimate of quantities of work completed and considered acceptable multiplied by the unit prices established in the Contract.

Cost of materials, properly stored, protected and insured at the site of work will be paid on monthly estimates only for the specific materials listed therein for partial payment. In preparing the monthly estimates, advancement will be made therein for ninety percent of the cost of such materials, as evidenced by invoices to the Contractor. All materials must conform to the requirements of the Specifications; however, advancement for materials will not constitute acceptance and any faulty material will be condemned although advancement may have been made for same in the estimates. Deductions at the same rates and equal in amount to the advancements will be made on the estimates as the material is used.

Quantities used for progress estimates shall be considered only as approximate and provisional and shall be subject to recalculations, adjustment and correction by the Engineer in subsequent progress estimates and in final estimates. Inclusion of any quantities in progress estimates, or failure to disapprove the work at the time of progress estimate, shall not be construed as acceptance of the corresponding work or materials.

Payment of the retained percentage shall be withheld for a period consistent with applicable state law following the final acceptance by the Owner and shall be paid to the Contractor at the expiration of said time period in event no claims, as provided by law, have been filed against such funds. In the event such claims are filed, the Contractor shall be paid such retained percentages less an amount sufficient to pay any such claims, together with a sum sufficient to pay the cost of such action and to cover attorney fees.

8.3 **Engineer's Action on a Request for Payment:** Within ten (10) days of submission of the Request for Payment by the Contractor, the Engineer shall:

- a. Approve the Request for Payment as submitted.
- b. Approve such other amount as he/she shall decide is due the Contractor, informing the Contractor in writing of the reasons for approving the amended amount.
- c. Withhold the Request for Payment, informing the Contractor in writing of the reasons for withholding it.

8.4 Owner's Action on an Approved Request for Payment: Within thirty (30) days, when monthly payments are specified, from the date of approval of a Request for Payment by the Engineer, the Owner shall:

- a. Pay the Request for Payment as approved.
- b. Withhold payment in accordance with Paragraph 8.5 informing the Contractor and the Engineer in writing of the reasons for withholding payment.
- c. Withhold any payment in accordance with statutory requirements.

8.5 Owner's Right to Withhold Payment of an Approved Request for Payment: The Owner may withhold payment in whole or in part on an approved Request for Payment to the extent necessary to protect him/her from loss for any of the following causes discovered subsequent to approval of a Request for Payment by the Engineer.

- a. Defective work.
- b. Evidence indicating the probable filing of claims by other parties against the Contractor.
- c. Failure of the Contractor to make payments to subcontractors, material suppliers or labor.
- d. Damage to another contractor.
- e. Conflict with legal requirements.

8.6 Interest on Unpaid Requests for Payment: Should the Owner fail to pay, unless otherwise regulated by statute, an approved Request for Payment within sixty (60) days from the date of approval by the Engineer, and should he/she fail to inform the Engineer and the Contractor in writing of the reasons for withholding payment, the Owner shall pay the Contractor interest on the amount of the Request for Payment at the rate of six percent (6%) per annum until payment is made.

8.7 Responsibility of the Contractor: Unless specifically noted otherwise, the Contractor shall furnish all materials and services and perform all the work described by the Contract Documents and complete said work within the time specified plus any additional time extensions that might be granted by the Owner.

Should the Contractor fail to complete the work within the time specified, he/she shall pay the Owner all extra cost for engineering and observation, as evidenced by suitable vouchers, and such damages as may be shown to have been incurred by the Owner due to failure to complete the work within the time limit.

8.8 Payment for Uncorrected Work: Should the Engineer direct the Contractor not to correct work that has been damaged or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract Amount shall be made to compensate the Owner for the uncorrected work.

8.9 Payment for Rejected Work and Materials: The removal of work and materials rejected and the re-execution of acceptable work by the Contractor shall be at the expense of the Contractor and he/she shall pay the cost of replacing the work of other contractors destroyed or damaged by the removal of the rejected work or materials and subsequent replacement of acceptable work.

- a. Removal of rejected work or materials and storage of materials by the Owner shall be paid by the Contractor within thirty (30) days after written notice to pay is given by the Owner. If the Contractor does not pay the expenses of such removal and after ten (10) days' written notice being given by the Owner of his/her intent to sell the materials, the Owner may sell the materials at auction or at private sale and shall pay to the Contractor the net proceeds therefrom after deducting all the costs and expenses that should have been borne by the Contractor.

8.10 Payments for Extra Work: Written notice of claims for payments for Extra Work shall be given by the Contractor within ten (10) days after receipt of instructions from the Engineer to proceed with the Extra Work and also before any work is commenced except in emergency endangering life or property. No claim shall be valid unless so made. In all cases, the Contractor's itemized estimate sheets showing all labor and material shall be submitted to the Engineer. The order for Extra Work shall specify any extension of the Contract Time and one of the following methods of payment:

- a. Unit prices or combinations of unit prices which formed the basis of the original Contract.
- b. A lump sum based on the Contractor's estimate, approved by the Engineer and accepted by the Owner.
- c. Actual cost plus 10% for overhead and profit.

8.11 Payment for Work Suspended by the Owner: If the work or any part thereof shall be suspended by the Owner and abandoned by the Contractor, the Contractor will be entitled to payment for all work done on the portions so abandoned, plus 10% of the value of the abandoned work to compensate for overhead, plant expense, and anticipated profit.

8.12 Payment for Work by the Owner: The cost of the work performed by the Owner in removing construction equipment, tools and supplies and in correcting deficiencies shall be paid by the Contractor.

8.13 Payment for Work by the Owner Following His/Her Termination of the Contract: Upon termination of the Contract by the Owner, no further payments shall be due the Contractor until the work is completed. If the unpaid balance of the Contract Amount shall exceed the cost of completing the work, including all overhead costs, the excess shall be paid to the Contractor. If the cost of completing the work shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The cost incurred by the Owner, as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Owner and approved by the Engineer.

8.14 Payment for Work Terminated by the Contractor: Upon suspension of the work or termination of the Contract by the Contractor, the Contractor shall recover payment from the Owner for the work performed, plus loss on plant and materials, plus established profit and damages, as approved by the Engineer.

8.15 Payment for Samples and Testing of Materials: Samples shall be furnished by the Contractor at his/her expense.

- a. Initial testing of samples and materials furnished shall be arranged and paid for by the Owner. Subsequent testing due to failed tests shall be paid for by the Contractor.

8.16 Acceptance and Final Payment: When the Contractor has completed the work in accordance with the terms of the Contract Documents, the Engineer shall state his/her acceptance to the Owner and his/her approval of the Contractor's Final Request for Payment, which shall be the Contract Amount plus all approved additions less all approved deductions and less previous payments made. After acceptance of the work by the Owner, the Owner shall release the Contractor, except as to the conditions of the Bonds, any legal rights of the Owner, required guarantees, and Correction of Faulty Work after Final Payment, and shall authorize payment of the Contractor's final Request for Payment. The Contractor must allow sufficient time between the time of completion of the work and approval of the final Request for Payment for the Engineer to assemble and check the necessary data.

8.17 Termination of Contractor's Responsibility: The Contract will be considered complete when all work has been finished, the final review made by the Engineer, and the project accepted in writing by the Owner. The Contractor's responsibility shall then cease, except as set forth in these Contract Documents.

8.18 Correction of Work After Final Payment: The approval of the final Request for Payment by the Engineer and the making of the final payment by the Owner to the Contractor shall not relieve the Contractor of responsibility for faulty materials or workmanship. The Owner shall promptly give notice of faulty materials or workmanship and the Contractor shall promptly replace any such defect, discovered within the time stated in the Maintenance Bond, from the date of written acceptance of the work. The Engineer shall decide all questions arising under this paragraph.

8.19 No Waiver of Legal Rights: Should an error be discovered in or payment of unauthorized work be made by the final estimate or should dishonesty on the part of the Contractor be discovered in the work, the Owner reserves the right, after the final payment has been made, to claim and recover by process of law such sums as may be sufficient to correct the error, to recover the overpayment, or to make good the defects in the work resulting from the Contractor's dishonesty.

Revised 07/14

SPECIAL PROVISIONS
Bridge Deck Overlay – 1st Avenue Over Bear Creek
Dyersville, IOWA

DIVISION 1 – GENERAL

1. Scope

The work consists of the furnishing of labor and new materials required for repairs that include: concrete deck repair, deck overlay, deck drain extensions, approach pavement and paving notch replacement, barrier rail and concrete curb removal, aesthetic barrier rail construction, and other misc. repairs

2. Specifications

Standard Specifications shall be the current Iowa Department of Transportation (IaDOT) Standard Specifications for Highway and Bridge Construction. The most current version of the Statewide Urban Design and Specifications (SUDAS) specifications shall also apply where referenced.

When work is specified to comply with Iowa Department of Transportation (IDOT) Standard Specifications for Highway and Bridge Construction, the latest edition of all standards shall apply, except that the Contractor will be solely responsible for the means, methods, techniques, sequences, procedures of construction, safety requirements and first aid requirements and any portion of said Standard Specifications which infer otherwise shall be disregarded. The Contractor shall be responsible for seeing that the finished work complies accurately with the Contract Documents. Copies of said specifications may be obtained from the Iowa Department of Transportation.

The following contractual documents and specifications are hereby made a part of this contract by reference.

- a. Code of Federal Regulations (CFR) 29, Part 1926, Safety and Health Regulations for Construction.

3. Owner

The Owner, referred to herein, is the City of Dyersville, Iowa.

The Contractor shall be responsible to comply with all City requirements regarding the use of existing public roadways for construction traffic and shall immediately clean up leakage, spillage, or repair any damage caused by his operations in any part of the City.

4. Engineer

“Engineer” shall refer to WHKS & Co., 1701 Route 35N, East Dubuque, IL 61025, or their authorized representative.

5. Removals and Excavation

All removals, rock excavation, and other material removed will remain the property of the Contractor. The Contractor shall dispose of all excavated material off the site. The Contractor shall secure said site.

The Contractor may stockpile these items temporarily as directed by the Owner. The stockpile areas shall be cleaned up and returned to their original condition.

The Contractor shall be required to saw existing concrete and asphalt surfacing where removal is not to be made to an existing joint. This shall apply to all paving, driveways, and sidewalks. No separate payment will be made for the required saw cuts.

All signs, shall be removed, salvaged, and replaced as an incidental item.

6. Surface Drainage

The Contractor shall take special care to provide good surface drainage for excavated areas. Subgrade preparation and aggregate base construction shall be scheduled as soon as possible after excavation to avoid the possibility of unacceptable moisture and density conditions occurring within the underlying soils. This may require the Contractor to furnish and install temporary drainage pipes and to construct temporary ditches at the locations determined by the Engineer during the construction, at the Contractor’s expense.

7. Items Incidental to Project

Items of work for which no pay items are included in the bid proposal shall be considered as incidental expense and no separate payment will be made therefore. Incidental items include, but are not limited to, the following:

- Off-site disposal of excess materials
- Signs, barricades, lights, etc., for maintaining traffic other than as specified below
- Maintenance, protection, replacement and/or restoration of poles and utilities
- Billboards for display of permits, posters, and other required documents
- Restoration or replacement of culverts or other drainage courses or structures not designated for removal
- Miscellaneous removals and disposal of material including debris, silt, mud, organic material remaining in the work area
- Sawcutting of in-place driveways, streets, sidewalks, or parking lots
- Shaping existing crushed stone base in surfacing aggregate areas

- Removal and replacement for any fences, street signs, and other miscellaneous items necessary for proper installation of any work required by this contract
- Locating and excavating for existing utilities and gas mains
- Dewatering
- Temporary aggregate surfacing for street and driveway access
- Maintenance of sub-base aggregate materials prior to paving
- Removal and re-installation of mailboxes
- Locating existing sanitary and water services

8. Project Schedule

All work must be completed before the date stated within the Bid Announcement, unless otherwise agreed by the City.

The parties hereby agree that damages occasioned the City by the Contractor's failure to complete the work within the Contract time are difficult to measure. Therefore, if the Contractor does not complete all work under this Contract as required herein above, the Contractor shall pay to the City the sum of \$500.00 per calendar day as agreed liquidated damages accrued by the City as a result of not having 100% use of the facilities and for administrative costs and professional services.

Said payment of liquidated damages at daily rate stated above shall continue until all work is satisfactorily completed as specified and so determined by the Engineer. The City shall have the right to collect the above described liquidated damages by deducting said amounts from funds payable to the Contractor or by such other means as are available. In addition to the above liquidated damages for delay in performance, the City reserves all rights and remedies they may have against the Contractor for breach of Contract. Time is of the essence.

9. Control of Work

The initial staking of the project shall require five calendar days advance notice. All subsequent staking shall require 48 hours advance notice.

The Contractor shall provide and maintain signs and barricades to adequately mark the construction areas. Flashing lights shall be provided for nighttime marking.

The Contractor shall carefully preserve bench marks, reference points, and stakes and in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

10. Maintaining Traffic Flow

A traffic pattern on City streets and alleys shall be maintained to provide emergency vehicle access to all property or as close as good construction planning will permit.

The Contractor is encouraged to open the road to safe traffic as soon as possible. Traffic control around the work zone is required.

Cooperation with City, State, and County Officials, adjacent property owners, other Contractors, Engineers, and Inspectors will be required at all times.

11. Street Closings

The Contractor shall notify the Public Works Director, the Fire Department, and the Police Department at least 48 hours prior to the closing of any streets. Warning signs and barricades shall be provided to adequately alert motorists of the closed streets.

12. Soil Conditions

The Contractor shall accept the existing soil conditions at the site and shall make the excavations required in the Plans and Specifications. Structural changes required by unforeseen soil conditions will be compensated for as provided by the extra work provisions of the Specifications.

13. Investigation of the Site and Oral Agreements

The Contractor shall investigate the nature and location of the work, the general and local conditions including but not limited to existing electrical distribution and other utilities, transportation, disposal, handling, and storage of materials, availability of labor, water, electric power, fuel, roads, and uncertainties of weather, or other physical conditions at the site, the conformation and condition of the ground, the character, quality and quantity of surface and sub-surface materials to be encountered and the character of equipment and facilities needed prior to and during the prosecution of the work. The Contractor's failure to properly conduct such investigation shall not relieve him from the responsibility for performing the work for the Contract Sum.

No oral agreement or conversation with any officer, agent, or employee of the Owner or the Engineer, either before or after the execution of this contract, shall effect or modify any of the terms or obligations contained in the Contract Documents.

14. Observation and Testing

All work performed and all material and equipment furnished by the Contractor shall strictly conform to the drawings and specifications. Competent labor, mechanics, and tradesmen shall be used on all work.

The acceptance at any time of the materials by or on behalf of the Owner shall not bar the Owner from future rejection if they are subsequently found to be defective or inferior in quality or uniformity to the material specified.

When any material shall be rejected by the Engineer, such material shall be removed at once from the line of work at the Contractor's expense, and shall not be brought back.

The Engineer shall have the right to observe and witness routine testing of all work and materials covered by the specifications. He shall have the right to review the manner in which special or requested tests are conducted.

The Contractor shall perform their own quality control testing based on IDOT testing requirements. The CONTRACTOR shall obtain an Independent Testing Laboratory for quality assurance soil investigation and tests including soil proctors and density tests, which meet IDOT testing I.M. 204A requirements. The Contractor shall also obtain an independent Testing Laboratory for satisfactory compression and/or flexural tests on concrete specimens made by the Testing Laboratory from materials furnished by the Contractor meeting IDOT I.M. 204E. If, however, in the event that personnel from the Testing Laboratory are not on the job site during the placing of concrete, then it shall be the CONTRACTOR'S responsibility to obtain and store concrete test specimens, made at the job site, for delivery to the Testing Laboratory. No concrete shall be placed unless said test specimens are made.

The Contractor shall perform pressure testing and disinfection tests at their own expense.

Work rejected by the Engineer shall be replaced with acceptable work at the expense of the Contractor.

Any inspections, tests, or approval of waiver of test shall not in any way relieve the Contractor of full responsibility for furnishing apparatus, equipment and all materials meeting the guaranteed performance and requirements of the Contract.

15. Materials and Equipment

All materials and equipment shall be new and unused unless otherwise specified, shall be of good quality, free from faults and defects, and shall meet or exceed the requirements of the specifications.

16. Cross References

The cross references listed in several Sections of these Specifications shall be used as a general guide only and shall not determine or limit the extent of the work required by the balance of the Specifications or Drawings.

17. Applicable Codes and Regulations

All work shall conform to the requirements of all National, State, or local laws, ordinances, building codes, or other regulations that are in effect at the place of work.

22. Progress and Completion

The work shall be commenced and completed within the time limits stated in the specifications.

The Contract Time may be extended by the Owner in an amount equal to the time lost due to delays beyond the control of the Contractor if he makes a claim therefore in accordance with the General Conditions. Such delays shall include delays caused by fire, flood, labor strikes, epidemics, abnormal weather conditions, or Acts of God. A weather condition which is not more extreme than has occurred at the closest official weather recording stations in the most recent five year period will not be considered an abnormal weather condition. The term "Act of God" as used herein above shall be defined as an inevitable accident; such as an extraordinary interruption of the usual course of events that no experience, foresight of care which might reasonably have been expected could have foreseen or guarded against it, as lightning or tornadoes.

Once started the Contractor shall devote their full attention to the project until the project is complete. Stopping and restarting the project at a later date shall not be allowed.

23. Sundays, Holidays, and Overtime

Any work necessary to be performed after regular working hours, Sundays, or legal holidays, shall be performed without additional expense to the Owner. Additionally the Contractor shall reimburse the Owner for additional Engineering expenses incurred during such period of Sunday, legal holiday or after regular working hours when work is being performed.

24. Permits, Licenses and Miscellaneous Fees

The Contractor shall be responsible for obtaining all the necessary permits and licenses required by law. Any utility connections, charges, or other miscellaneous fees shall be paid by the Contractor.

25. Environmental Protection

The Contractor is required to rigorously control the work so that the environment including air, water, and land is not environmentally damaged by dust, runoff, erosion, and/or noise during the course of construction. When spoil from earthwork is stored as part of the Contract work, it will be protected by barriers or dikes to prevent erosion of spoil material and runoff of solids to any stream or other body of water.

In accepting the Contract, the Contractor accepts full liability for any lawsuits brought by any person, corporation, or agency as a result of environmental damage caused by the construction work.

26. Record Drawings

The Contractor shall maintain at the construction site one complete set of drawings suitably marked to show all deviations from the original set of drawings and other information as specified. Supplementary sketches shall be included, if necessary, to clearly indicate all work as constructed.

All work shall be clearly shown and the record drawings shall be satisfactory to the Owner in order to insure that adequate information is indicated to show the actual construction. One complete set of the record drawings shall be furnished to the Engineer prior to submittal of the final Application for Payment. Failure of the Contractor to maintain an up-to-date set of record drawings on the project site shall be reason to withhold payments. All underground lines shall be referenced to surface landmarks so the exact location can be determined from the record drawings.

27. Signs and Barricades

The Contractor shall furnish, erect, and maintain all signs, barricades, fencing, etc. to adequately mark and protect the construction area. Flashing lights shall be provided for nighttime marking.

28. Cleanup

The term cleanup applies to the removal of excess materials, the shaping of streets adjacent to the excavation, and the related work necessary to restore the construction area to its original condition and usability.

Unnecessary delay by the Contractor in cleanup may result in the suspension of further construction until such cleanup is completed.

29. Precedence Within the Specification

Should any of the items of these Special Provisions conflict with any other items of the Contract Documents, these Special Provisions shall govern.

30. Historical/Archaeological

If, during the course of construction, evidence of deposits of historical or archaeological interest is found, the Contractor shall cease operations affecting the find and shall notify the Owner. No further disturbance of the deposits shall ensue until the Contractor has been notified by the Owner that he may proceed. The Owner will issue a Notice to proceed only after the State official has surveyed the find and made a determination of value and effect and submitted such determination to the Environmental Protection Agency and the Owner. Compensation to the Contractor, if any, for lost time or changes in construction to avoid the find, shall be

Division 1

determined in accordance with changed conditions or change order provisions of the specifications.

31. Construction Site Safety

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs for their employees in connection with the work. Furthermore, the Contractor is responsible to provide a safe work site for employees and/or representatives of the Owner.

The Contractor shall comply with all Federal, State, and local safety requirements. The Contractor shall have a current safety plan and a designated safety officer.

END