

## **Contract Bidding Documents**

### **DOWNING CIRCLE MILLING AND RESURFACING**



**City of Wauchula 126 South 7<sup>th</sup> Avenue  
Wauchula, Florida 33873**

**Project No. 10371.01**

**Sealed Bids Due:**

Date: December 10, 2025

Time: 10:00 AM

Location: City of Wauchula Administration Building

126 South 7<sup>th</sup> Avenue

Wauchula, Florida 33873

**Prepared by**

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**CITY OF WAUCHULA  
DOWNING CIRCLE MILLING AND RESURFACING  
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**Technical Specifications shall conform to Florida Department of Transportation Standard Specifications for Road and Bridge Construction (SSR&BC) (Latest Edition) and State of Florida Department of Transportation STANDARD PLANS FOR ROADWAY CONSTRUCTION (Latest Edition)**

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## **DIVISION 00**

# **PROCUREMENT AND CONTRACTING REQUIREMENTS**

**SECTION 00 11 13**  
**ADVERTISEMENT FOR BIDS**

Sealed bids for milling and resurfacing Downing Street for the City of Wauchula will be received by the Owner, until 10:00 A.M. on December 10, 2025, local time at the City Administration Building, 126 South 7<sup>th</sup> Avenue, Wauchula, Florida 33873. Bids shall be enclosed within a sealed envelope with the words "BID FOR DOWNING STREET MILLING & RESURFACING" and the Bidder's name clearly marked on the outside of the sealed envelope. Bids received after said time will be returned unopened. Reliance on mail or public carriers is at the Bidder's own risk. All timely received Bids shall be publicly opened, read aloud and recorded, at or soon after, 10:00 AM local time on December 10, 2025, in the City of Wauchula Administration Building, 126 South 7th Avenue, Wauchula, Florida 33873.

Plans and specifications are on file for inspection at the City of Wauchula Administration Building located at 126 South 7th Avenue, Wauchula, Florida 33873.

The Bidder is solely responsible for obtaining the Bid Documents. An electronic version of the Bid Documents may be downloaded from the City of Wauchula website at the following:  
<https://www.cityofwauchula.gov/home/news/e-main-street-mill-and-resurface-project>

Character and amount of security to be furnished by each bidder are stated in the bid documents. The principal features of the Contract include:

The work of this contract generally consists of milling and resurfacing the pavement for Downing Circle, in Wauchula, Florida. The existing pavement surface shall be milled to a depth of 1-inch. The milled surface shall then be overlaid with 1 ¼ inches of SP-9.5 asphaltic concrete surface course. Two ADA Mats, Crosswalk, Stop bars and 6" Double Yellow Striping shall be placed as shown on the plans. The Contractor shall be responsible for all Maintenance of Traffic. All workmanship and materials shall be in accordance with the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (Latest Edition).

**Contractors submitting bid proposals must be FDOT Pre-qualified for this work. Contractors submitting bid proposals must submit proposals on all work items in the contract to be considered a responsive bidder.**

**Questions: All questions regarding this Invitation for Bid shall be submitted in writing and delivered to Stephanie Camacho, City Clerk, City of Wauchula, 126 South 7th Avenue, Wauchula, FL 33873, or via email: [scamacho@cityofwauchula.com](mailto:scamacho@cityofwauchula.com)** All questions are due by 5:00 PM local time on \_\_\_\_\_, 2025. Questions will be answered in the form of an Addenda. The Addenda will also be posted on the City of Wauchula website at [www.cityofwauchula.com](http://www.cityofwauchula.com).

**A Pre-Bid meeting will not be held. Should there be any questions regarding the work of this bid, they shall be submitted during the bid process.**

insurance, is however, required to be secured from or countersigned by an agency of the insurance company, which agency shall have an established place of business in Florida and be duly licensed to conduct business therein.

The City reserves the right to waive informalities in any bid; to reject any or all bids in whole or in part, with or without cause; and/or to accept the bid that in its judgment will be in the City's best interest.

END OF SECTION

**SECTION 00 21 00**  
**INSTRUCTIONS TO BIDDERS**

**ARTICLE 1 - DEFINED TERMS**

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1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. *Issuing Office*--The office from which the Bidding Documents are to be issued.

**ARTICLE 2 - COPIES OF BIDDING DOCUMENTS**

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2.01 Complete sets of the Bidding Documents may be obtained from the Issuing Office in the number and for the sum, if any, stated in the Advertisement for Bids.

2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

2.04 Bidder is required to obtain an original set of Bidding Documents to be considered responsive.

## **ARTICLE 3 - QUALIFICATIONS OF BIDDERS**

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- 3.01 Each Bid must contain evidence of Bidder's qualification to do business in the State in accordance with Florida Statute 489.
- 3.02 To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit with the bid the Bidder Qualification Statement (Section 00 45 13).
- 3.03 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within five (5) days of Owner's request, Bidder shall submit written evidence establishing its qualifications such as financial data, previous experience, and present commitments, and such other information as may be called for below or in the Supplementary Conditions.
- 3.04 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.05 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.06 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

## **ARTICLE 4 – SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE**

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- 4.01 Site and Other Areas
  - A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.
- 4.02 Existing Site Conditions (None known to Exist)
  - A. Subsurface and Physical Conditions
    - 1. The Supplementary Conditions identify:
      - a. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.

- b. those drawings known to Owner of physical conditions relating to existing surface and subsurface structures at the Site (except Underground Facilities).
  - c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
  - d. Technical Data contained in such reports and drawings.
- 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
- 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.
- C. Adequacy of Data: Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 5.06 of the General Conditions.

#### 4.03 Site Visit and Testing by Bidders

- A. Bidder shall conduct the required Site visit during normal working hours and shall not disturb any ongoing operations at the Site.
- B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder access to the Site to conduct such

additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site.

- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

#### 4.04 Owner's Safety Program

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

#### 4.05 Other Work at the Site

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

### **ARTICLE 5 – BIDDER'S REPRESENTATIONS**

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#### 5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the

- means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
  - G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
  - H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
  - I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
  - J. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

## **ARTICLE 6 – PRE-BID CONFERENCE**

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- 6.01 A Pre-Bid Conference for this project will not be held. Any questions regarding the work of this bid should be submitted in writing as set forth in the Advertisement. Oral statements may not be relied upon and will not be binding or legally effective.

## **ARTICLE 7 - INTERPRETATIONS AND ADDENDA**

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- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted in writing as set forth in the Advertisement. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all parties as set forth in the Advertisement. Questions received after the time set forth in the Advertisement will not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, supplement, or change the Bidding Documents.

## **ARTICLE 8 - BID SECURITY**

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8.01 There will be no bid security/bid bond, required for this project.

## **ARTICLE 9 - CONTRACT TIMES**

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9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

## **ARTICLE 10 - NOTICE OF LIQUIDATED DAMAGES**

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10.01 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement and Contract Documents.

## **ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS**

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

11.02 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

## **ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

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12.01 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work if required by the Bidding Documents (most commonly in the Specifications) to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.

- 12.02 Subsequent to the submittal of the Bid, Owner may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, or other individual or entity against which Contractor has reasonable objection.
- 12.03 The apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid Opening submit a list of Subcontractors or Suppliers proposed for the Work. If requested by Owner, such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, or other individual or entity. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 12.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, or other individuals or entities. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.06 of the General Conditions.
- 12.05 Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to confirm the employment eligibility of all persons employed by the Contractor during the term of this Contract in which the contractor performs employment duties within Florida. This verification requirement extends to all persons, including subcontractors, utilized, hired, contracted or assigned by the Contractor to perform work pursuant to this Contract.

## **ARTICLE 13 - PREPARATION OF BID**

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- 13.01 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from Engineer.
- A. All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the

Bid Form. A Bid price shall be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

- B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”
- 13.02 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown. The corporate seal shall be affixed and attested by the secretary or an assistant secretary.
- 13.03 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 13.04 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.05 A Bid by an individual shall show the Bidder’s name and official address.
- 13.06 A Bid by a joint venture shall be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.07 All names shall be typed or printed in ink below the signatures.
- 13.08 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.09 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.10 The Bid shall contain evidence of Bidder’s authority and qualification to do business in the state where the Project is located, or Bidder shall covenant to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder’s state contractor license number, if any, shall also be shown on the Bid Form.

## **ARTICLE 14 - BASIS OF BID**

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### **14.01 Unit Price**

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

### **14.02 Alternates**

- A. Bidders shall include a separate price for each alternate described in the Bidding Documents and as provided in the Bid Form. The price for each alternate will be the amount added to or deducted from the base Bid if the Owner selects the alternate.

## **ARTICLE 15 - SUBMITTAL OF BID**

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- 15.01 The Bid Form provided with the bid documents is to be completed and submitted with the Bid security, if any, and the documents required to be submitted under the terms of Article 7 of the Bid Form.
- 15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security, if any, and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation “BID FOR DOWNING STREET MILLING AND

RESURFACING.” A mailed Bid shall be addressed to City of Wauchula, 126 South 7<sup>th</sup> Avenue, Wauchula, Florida 33873.

- 15.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

## **ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID**

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- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of the Bids.
- 16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

## **ARTICLE 17 - OPENING OF BIDS**

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- 17.01 In accordance with 255.0518, F.S., Bids will be publicly opened at the time and place indicated in the Advertisement or invitation to bid and, unless obviously non-responsive, the names of each Bidder and the total price in each Bid will be announced and recorded. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids. In accordance with 119.071, F.S., complete Bid packages will not be available for review until the Owner provides notice of an intended decision or 30 days after the Bid opening, whichever is earlier.

## **ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

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

## **ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT**

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- 19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the Owner will reject the Bid as nonresponsive; provided that Owner also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.
- 19.02 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project.
- 19.03 Evaluation of Bids
- A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
  - B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.
- 19.04 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

## **ARTICLE 20 - CONTRACT SECURITY AND INSURANCE**

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- 20.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the Agreement (executed by Successful Bidder) to Owner, it shall be accompanied by such bonds and insurance documentation.

## **ARTICLE 21 - SIGNING OF AGREEMENT**

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

## **ARTICLE 22 – ADDITIONAL CONDITIONS**

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### **22.01 Conflict of Interest**

A. Any Bidder bidding the construction phase of a project cannot at the time of Bid submittal, be affiliated with or have any direct or indirect ownership interest in the architect/engineer (“Designer”) of record. The Bidder will also be prohibited from bidding if the Engineer has any direct or indirect ownership interest in the Bidder. Should the Owner erroneously award a contract in violation of this policy, the Owner may terminate the contract at any time with no liability to Contractor, and Contractor shall be liable to the Owner for all damages, including but not limited to the costs to rebid the Project. The purpose of this policy is to encourage open, fair and competitive bidding and to eliminate any actual or perceived advantage that one bidder may have over another.

### **22.02 Ethics**

A. By signing the Bid Form, the Bidder certifies this Bid is made without any previous understanding, agreement or connection with any other person, firm, or corporation submitting a Bid for the same Work other than as a Subcontractor or supplier, and that this Bid is made without outside control, collusion, fraud, or other illegal or unethical actions. The Bidder shall comply with all Owner ordinances, policies and procedures regarding business ethics.

B. The Bidder shall submit only one Bid in response to this Solicitation. If the Owner has reasonable cause to believe the Bidder has submitted more than one Bid for the same Work, other than as a Subcontractor or Supplier, the Owner may disqualify the Bid and may pursue debarment actions.

C. The Bidder shall disclose the name(s) of any public officials who have any financial position, directly or indirectly, with this Bid by submitting such information with its Bid. Failure to do so will disqualify the Bid. If the Owner has reason to believe that collusion exists among the Bidders, the Owner will reject any and all Bids from the suspected Bidders and may proceed to debar the Bidder(s) from future Work.

**D.** In accordance with Florida Statutes, Section 287.133, the Owner will reject Bids from any persons or affiliates convicted of a public entity crime as listed on the Convicted Vendors list maintained by the Florida Department of Management Services. The Owner shall not make an Award to any officer, director, executive, partner, shareholder, employee, member, or agent active in management of the Bidder listed on the Convicted Vendor list for any transaction exceeding \$10,000 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor list.

**E.** If the Bidder violates any requirement of this Section, the Bid may be rejected, and the Owner may debar the offending companies and persons from future Work with the Owner.

### **22.03 Ex Parte Communication**

**A.** Ex Parte Communication is strictly prohibited. Failure to adhere to this policy will disqualify the noncompliant Bidder's Bid. The City's policy on Ex Parte Communication will not prohibit the following:

1. Meetings called or requested by the City, if any, and attended by the Bidders for the purpose of discussing this Solicitation, evaluation, or selection process including, but not limited to, substantive aspects of the Solicitation. Such meetings may include, but are not limited to, Pre-Bid meetings, site visits to the City's or the Bidders' facilities, interviews/negotiation sessions as part of the selection process, and other presentations by the Bidders, all of which are requested by the City and will be limited to topics specified by the City.

2. The addressing of the City at public meetings advertised and conducted pursuant to Florida Statutes, Section 286.011.

3. The filing of a written protest to any proposed Award to be made pursuant to this Solicitation, evaluation and selection process, which filing, and prosecution shall give notice to all Bidders. Protest proceedings shall be limited to open public meetings advertised and conducted pursuant to Florida Statutes, Section 286.011 with no Ex Parte Communication outside those meetings.

4. Communications between the City representatives and the Bidder for routine matters arising from procurements other than this Solicitation.

5. Written communication between potential Bidders and the Engineer provided copies of written communications are provided to all Bidders.

### **22.04 Prohibition Against Contingent Fees**

**A.** The Bidder warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Bidder, to solicit or secure a contract with the City, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Bidder, any fee, commission, percentage, gift, or any other

consideration, contingent upon or resulting from the Award or making of the Contract. For the breach or violation of these provisions, the City shall have the right to disqualify the Bid and pursue debarment or terminate the Contract without liability and at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

## **22.05 PUBLIC ENTITY CRIMES STATEMENT**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or proposal on a contract to provide any goods or services to a public entity, may not submit a bid or proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submitting this proposal, the Bidder hereby certifies that they have complied with said statute.

## **22.06 EQUAL OPPORTUNITY EMPLOYER**

The City is an equal opportunity employer. The City is committed to equal opportunity employment and expects firms that do business with the City to be equal opportunity employers. Any bidder who enters a contract with the City must covenant and agree that no employee or applicant for employment with the proposer's company will be discriminated against during the course of employment or in the application process with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, gender, age, disability, national origin, marital status, political affiliation, familial status, pregnancy, gender or sexual orientation, or veteran or service member status.

Any bidder who enters into a Contract with the City must also acknowledge its continuous duty to disclose to the City if it or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, has been placed on the Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

## **22.07 DEVELOPMENT COSTS**

Neither the City nor its representative(s) shall be liable for any expenses incurred in connection with preparation of a response to the ITB. Bidders should prepare their statements simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the ITB.

## **22.08 CONTRACTUAL MATTERS**

All contracts are subject to final approval of the City of Wauchula City Commission. Persons or firms who incur expenses or change position in anticipation of a contract prior to the Commission's approval do so at their own risk.

## **22.09 PROPRIETARY INFORMATION**

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State and Federal Law, all bidders should be aware that all Invitations to Bid and the responses thereto are in the public domain and are public records under Chapter 119, Florida Statutes. Bidders are required to identify specifically any information contained in their proposals which they consider confidential and/or proprietary, or trade secrets and which they believe to be exempt from disclosure.

All bids received will become the property of the City and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.

## **22.10 E-VERIFY REQUIREMENTS**

Effective January 1, 2021, public and private employers, contractors, and subcontractors must require registration with, and use of the E-Verify system in order to verify the work authorization status of all newly hired employees. All proposers are hereby notified that the City requires all vendors, contractors, and subcontractors to register with and use the E-Verify system as more fully set forth in the Contract included in this ITB.

END OF SECTION

**SECTION 00 41 00  
BID FORM**

Project Name: City of Wauchula – Downing Street Milling and Resurfacing

CSI Project No.: 10371.01

**THIS BID IS SUBMITTED BY:**

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**ARTICLE 1 – BID RECIPIENT**

1.01 This Bid is submitted to:

City of Wauchula  
126 South 7<sup>th</sup> Avenue  
Wauchula, Florida 33873-2802

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

1.03 Bidder's Acknowledgements

Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 30 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**ARTICLE 2 – BIDDER'S REPRESENTATIONS**

2.01 In submitting this Bid, Bidder represents that:

- A. Bidder has received from the Issuing Office a complete set of Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

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

- B. Bidder has examined and carefully studied the Bidding Documents, Addenda, and the other related data identified in the Bidding Documents, and provided the information to subcontractors and suppliers who have provided quotations to the Bidder for the Work.
- C. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- D. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
- E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

### **ARTICLE 3 – BIDDER’S CERTIFICATION**

3.01 Bidder certifies that:

- A. this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract.
  - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

### **ARTICLE 4 – BASIS OF BID**

4.01 Bidder will complete the Work in accordance with the Contract Documents for the following Lump Sum Price:

<b>TABULATION OF QUANTITIES</b> <b>Downing Circle</b> <b>21-Oct-25</b>						
No.	Item No.	Description	Quan.	Unit	Unit Price	Total Price
I		<b>General</b>				
1	101-1	Mobilization (Includes Bonds & Insurance, Etc.)	1	LS		
2	102-1	Maintenance of Traffic (10%)	1	LS		
					Sub-total =	
		<b>Downing Circle</b>				
3	105-1	Contractors Quality Control (Materials Testing)	1	LS		
4	104-10-3	Staked Silt Fence Type III	1	LS		
5	327-70-1	Milling Exist. Asph Pav't, 1" Avg. Depth (Incl. Delivery to City)	1	LS		
6	334-1-13	Type SP-9.5 Asph. Conc. (Traffic C)(1 1/4")(20 ft. wide)	1	LS		
7	527-2	Detectable Warnings	1	LS		
8	570-1-2	Performance Turf (2 ft. each side for entire project limits)	1	LS		
9	710-11-123	Painted Pavement Marking, Standard, White, Solid for Crosswalk, 12"	1	LS		
10	710-11-125	Painted Pavt Marking, Standard, White, Solid for Stop line, 24"	1	LS		
11	710-11-201	Painted Pavt Marking, Standard, Yellow, Solid, 6"	1	LS		
12	711-11-123	Thermoplastic, Standard, White, Solid, 12" for Crosswalk	1	LS		
13	711-11-125	Thermoplastic, Standard, White, Solid, 24" for Stop line	1	LS		
14	711-16-201	Thermoplastic, Standard-Other Surfaces, Yellow, Solid, 6"	1	LS		
15		Shell Base Repair Contingency (Not to be used without approval by the City)	1	LS	\$15,000.00	\$15,000.00
					Sub-total =	
					Grand Total =	

**TOTAL LUMP SUM BID - (sum of Total Prices listed)**

\_\_\_\_\_

(Words)

\_\_\_\_\_ (\$ \_\_\_\_\_)

(Numbers)

**ARTICLE 5 – TIME OF COMPLETION**

5.01 Bidder agrees that the Work will be substantially complete within 45 calendar days after the date when the Contract Times commence to run and ready for final payment within 60 calendar days after the date when the Contract Times commence to run

**ARTICLE 6 – BID SUBMITTAL**

6.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): \_\_\_\_\_

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

\_\_\_\_\_ (SEAL)  
*(Individual's signature)*

Doing business as: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_

\_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of general partner – attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

State Contractor License No. \_\_\_\_\_.

A Corporation

Corporation Name: \_\_\_\_\_  
\_\_\_\_\_ (SEAL)

State of Incorporation: \_\_\_\_\_

Type (General Business, Professional, Service, Limited Liability): \_\_\_\_\_

By: \_\_\_\_\_  
(Signature – attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_  
(CORPORATE SEAL)

Attest: \_\_\_\_\_  
(Signature of Corporate Secretary)

Date of Qualification to do business in Florida is \_\_\_\_\\_\_\_\_\\_\_\_\_.

State Contractor License No. \_\_\_\_\_.

A Joint Venture

Name of Joint Venturer: \_\_\_\_\_

First Joint Venturer Name: \_\_\_\_\_  
\_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
(Signature of first joint venture partner – attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

Second Joint Venturer Name: \_\_\_\_\_  
\_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
(Signature of second joint venture partner – attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Email address: \_\_\_\_\_

Submitted on \_\_\_\_\_, 20\_\_\_\_.

State Contractor License No. \_\_\_\_\_.

END OF SECTION

**SECTION 00 45 13**  
**BIDDER'S QUALIFICATION STATEMENT**

The Bidder warrants the truth and accuracy of all statements and answers herein contained. (Include additional sheets if necessary.)

**THIS QUALIFICATION STATEMENT MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.**

1. Bidder Name: \_\_\_\_\_  
License No. (Attach Copy) \_\_\_\_\_  
Co. Physical address: \_\_\_\_\_  
Telephone number: ( ) \_\_\_\_\_ fax: ( ) \_\_\_\_\_.
2. Bidding as an; individual:\_\_\_\_; a partnership:\_\_\_\_; a corporation: \_\_\_\_; a joint venture:\_\_\_\_.
3. If a partnership: list names and addresses of partners; if a corporation: list names of officers, directors, shareholders, and state of incorporation; if joint venture: list names and addresses of venturers and the same if any venturer is a corporation for each such corporation, partnership, or joint venture:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Your organization has been in business (under this firm's name) as a \_\_\_\_\_  
\_\_\_\_\_for how many years?\_\_\_\_\_.
5. Total number of employees and number planned to be used on this project:  
\_\_\_\_\_
6. Describe and give the date and owner of the last three government projects completed which are similar in cost, type, size, and nature as the one proposed (for a public entity). Include contact name and phone number:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_

7. Have you been awarded additional time to complete work awarded to you during the past five (5) years? If so, state when, where (contact name, address, and phone number) and why.

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8. Have you been assessed liquidated damages under a contract during the past five (5) years? If so, state when, where (contact name, address, and phone number) and why.

---

---

9. Have you failed to complete work awarded to you? If so, state when, where (contact name, address, phone number) and why.

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10. Have you been debarred or prohibited from bidding on a governmental entity's construction project? If yes, name the entity and describe the circumstances.

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11. Have you filed claim or had a claim filed against you for mediation, arbitration or litigation under a contract during the past five (5) years? If so, state when, where (contact name, address, and phone number) and why.

---

---

12. Name three individuals, governmental entities, or corporations for which you have performed similar work and to which you refer. Include contact name and phone number.

1. 

---

2. 

---

3. 

---

13. What specific steps have you taken to examine the physical conditions at or contiguous to the site, including but not limited to, the location of existing underground facilities?

---

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14. What specific physical conditions, including but not limited to, the location of existing underground facilities have you found which will, in any manner, affect cost, progress, performance, or finishing of the work?

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15. Will you subcontract any part of this Work? If so, describe which major portion(s).

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16. If any, list (with contract amount) MBE/WBE's to be utilized.

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17. What equipment do you own to accomplish this Work?

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18. What equipment will you purchase/rent for the Work? (specify which)

---

---

---

19. Provide names of proposed Project Manager and Superintendent. Attach resumes.

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---

20. List a Financial/Banking Reference for your organization.

---

---

21. List the following in connection with the Surety which is providing the Bond(s).

Surety's Name: \_\_\_\_\_

Surety's Address: \_\_\_\_\_

---

22. Name, address and phone number of Surety's resident agent for service of process in Florida:

---

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Phone: (\_\_\_\_) \_\_\_\_\_

END OF SECTION

**SECTION 00 45 19**  
**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:  
Name

- (1) He/She is \_\_\_\_\_ of \_\_\_\_\_, the  
Title Company  
Bidder that has submitted the attached bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of his officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or has refrained from bidding in connection with such Contract; nor in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or if any other Bidder; nor has fixed any overhead, profit or cost element of the Bid price, or the Bid price of any other Bidder; nor has secured through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the City of Wauchula, Florida or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

My commission expires \_\_\_\_\_

END OF SECTION

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**SECTION 00 45 46**  
**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),**  
**FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the City of Wauchula, Florida by

\_\_\_\_\_

(print individual's name and title)

for \_\_\_\_\_

(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_

\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_.

(If the entity has no FEIN, include the Social Security of the individual signing this sworn statement: \_\_\_\_\_.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or such an agency or political subdivision of any other state or of the United States and involving anti-trust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

- 1.) A predecessor or successor of a person convicted of a public entity crime: or
- 2.) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters in to a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (indicate which statement applies).

☐ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Personally known \_\_\_\_\_

OR Produced Identification \_\_\_\_\_

\_\_\_\_\_  
(Type of Identification)

\_\_\_\_\_  
Notary Public-State of \_\_\_\_\_

My commission expires \_\_\_\_\_

\_\_\_\_\_  
(Printed, Typed or Stamped  
Commissioned Name of Notary Public)

END OF SECTION

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- (3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection ( 1 ).
- (4) In the statement specified in subsection (1 ), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

END OF SECTION

**SECTION 00 51 00  
NOTICE OF AWARD**

Date of Issuance:

Owner:

Owner's Contract No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

Bidder:

Bidder's Address: (send Certified Mail, Return Receipt Requested)

**TO BIDDER:**

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

[describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is \$ \_\_\_\_\_ [note if subject to unit prices, or cost-plus]

\_\_\_\_\_ unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically [revise if multiple copies accompany the Notice of Award]

\_\_\_\_\_ sets of the Drawings will be delivered separately from the other Contract Documents.

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

1. Deliver to the Owner [\_\_\_\_\_] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):  
\_\_\_\_\_

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

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

\_\_\_\_\_  
Owner

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

Copy: Engineer

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**SECTION 00 52 43**  
**AGREEMENT FORM**

This Agreement is made and entered into on \_\_\_\_\_ ("Effective Date"), by and between THE CITY OF WAUCHULA, located at, 126 South 7<sup>th</sup> Avenue, Wauchula, Florida 33873 ("Owner") and \_\_\_\_\_ a [STATE OF INCORPORATION] corporation with principal offices at \_\_\_\_\_ [ADDRESS OF CONTRACTOR] ("Contractor").

Whereas, the Owner issued an Invitation for Bid and all associated Bid Documents for the Work titled "DOWNING CIRCLE MILLING AND RESURFACING," and;

Whereas, the Contractor submitted a Bid in response to such Work, which was opened and accepted by Owner on \_\_\_\_\_, 2025, and;

Whereas, the Owner has determined that the Contractor's Bid is the lowest responsive and responsible Bid for the Work and has issued the Contractor a Notice of Award to such effect;

WHEREAS, as a condition of Agreement, the Contractor agrees to adhere to each term and condition contained herein, and understands and agrees that the City shall not make any distributions of funds to Contractor absent Contractor's agreement and adherence to each term and condition contained herein.

Therefore, the City and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**ARTICLE 1 - WORK**

- 1.01 The work of this contract generally consists of milling and resurfacing the pavement for Downing Circle, in Wauchula, Florida. The existing pavement surface shall be milled to a depth of 1-inch. The milled surface shall then be overlaid with 1 ¼ inches of SP-9.5 asphaltic concrete surface course. Two ADA Mats, Crosswalk, Stop bars and 6" Double Yellow Striping shall be placed as shown on the plans. The Contractor shall be responsible for all Maintenance of Traffic. All workmanship and materials shall be in accordance with the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (Latest Edition).

**ARTICLE 2 - ENGINEER**

- 2.01 The Project has been designed by Chastain-Skillman, Inc., Lakeland, Florida (Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

## ARTICLE 3 - CONTRACT TIMES

### 3.01 Time of the Essence

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

### 3.02 Days to Achieve Substantial Completion and Final Payment

- A. The Work will be substantially completed within 45 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 60 days after the date when the Contract Times commence to run.

### 3.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$500 for each day that expires after the time specified in Paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$500 for each day that expires after the time specified in Paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

## ARTICLE 4 - CONTRACT PRICE

- 4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount of \$\_\_\_\_\_ in current funds equal to the sum of the amounts determined pursuant to Paragraph 4.01.A below:

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

## ARTICLE 5 - PAYMENT PROCEDURES

### 5.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

## 5.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the \_\_\_\_ day of each month during performance of the Work as provided in Paragraphs 5.02.A.1 and 5.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.03.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:
    - a. 95 percent of Work completed (with the balance being retainage).
    - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
  2. Upon Substantial Completion, the Owner may reduce the remaining retainage withheld to an amount not to exceed 150 percent of the estimated total costs to complete punch list items.

## 5.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

## ARTICLE 6 - INTEREST

6.01 All amounts not paid when due shall bear interest at a rate in accordance with Florida Statutes.

## ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

7.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
- E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the

Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## ARTICLE 8 - CONTRACT DOCUMENTS

### 8.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to \_\_\_\_, inclusive).
  - 2. Public Construction bond (pages \_\_\_\_ to \_\_\_\_, inclusive).
  - 3. General Conditions (pages 1 to 62, inclusive).
  - 4. Supplementary Conditions (pages 1 to 9, inclusive).
  - 5. Statutory Requirements (pages 1 to 6, inclusive).
  - 6. Specifications as listed in the table of contents of the Project Manual.
  - 7. Drawings consisting of \_\_\_\_ sheets with each sheet bearing the following general title: \_\_\_\_\_[or] the Drawings listed on attached sheet index.
  - 8. Addenda (numbers \_\_\_\_ to \_\_\_\_, inclusive).

9. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid (pages \_\_\_\_ to \_\_\_\_, inclusive).
  - b. Documentation submitted by Contractor prior to Notice of Award (pages \_\_\_\_ to \_\_\_\_, inclusive).
10. Copy of FDOT Qualification listing approved work classes.
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - a. Notice to Proceed (pages \_\_\_\_ to \_\_\_\_, inclusive).
  - b. Work Change Directives.
  - c. Change Order(s).
- B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## ARTICLE 9 - MISCELLANEOUS

### 9.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the Standard General Conditions of the Construction Contract and the Supplementary Conditions, which Standard General Conditions of the Construction Contract and Supplementary Conditions are incorporated into this Agreement and govern the parties' respective rights and obligations under this Agreement as if fully re-stated herein.

## 9.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

## 9.03 Successors and Assigns

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

## 9.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

## 9.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 9.05:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on \_\_\_\_, \_\_\_\_ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

License No.:

\_\_\_\_\_  
(Where applicable)

Agent for service or process: \_\_\_\_\_

\_\_\_\_\_

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

END OF SECTION

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**SECTION 00 55 00  
NOTICE TO PROCEED**

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

**TO CONTRACTOR:**

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [\_\_\_\_\_, 20\_\_]. *[see Paragraph 4.01 of the General Conditions]*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, [the date of Substantial Completion is \_\_\_\_\_, and the date of readiness for final payment is \_\_\_\_\_] **or** [the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

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

*[Note any access limitations, security procedures, or other restrictions]*

---

Owner:

Authorized Signature

By:

Title:

Date Issued:

---

Owner

By:

Authorized Signature

---

Title

Copy: Engineer

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**SECTION 00 61 00**  
**PUBLIC CONSTRUCTION BOND FORM**

(Florida Statutes Section 255.05(3))

BY THIS BOND, We \_\_\_\_\_, as Principal and \_\_\_\_\_, a \_\_\_\_\_ Corporation, as Surety, are bound to \_\_\_\_\_, a political subdivision of the State of Florida, herein called Owner, in the sum of \$\_\_\_\_\_, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract dated \_\_\_\_\_, 20\_\_\_\_, between Principal and Owner for the \_\_\_\_\_, the Contract being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract; and
3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the Contract documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond.

DATE ON \_\_\_\_\_, 20\_\_\_\_\_.

AS SURETY:

CONTRACTOR, AS PRINCIPAL:

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_  
(As Attorney in Fact)

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

Title: \_\_\_\_\_

## PUBLIC CONSTRUCTION BOND

1. A good and sufficient Public Construction bond, in the penal sum of not less than one hundred (100%) percent of the Contract amount, with a surety company satisfactory to Owner, will be required of Contractor guaranteeing that the Contract, including the various guarantee periods thereunder will be faithfully performed; and that Contractor will promptly make payment to all persons supplying Contractor labor, materials, supplies and services used directly or indirectly by Contractor in the prosecution of the work provided for in the Contract.
2. The Surety Company furnishing this bond shall be authorized to do business in the State of Florida, shall be in compliance with the provisions of the Florida insurance code, shall have twice the minimum surplus and capital required by the Florida Insurance code, and shall hold a currently valid certificate of authority issued by the United States Department of Treasury pursuant to Title 31, Sections 9304-9308, of the United States Code. Surety company must have a rating of not less than "A-X" by the latest edition of the Key Rating Guide as published by A.M. Best Company, A.M. Best Road, Oldwick, NJ 08858.
3. The Attorney-in-Fact (Resident Agent) who executes the Public Construction Bond on behalf of the Surety Company must attach a notarized copy of his power-of-attorney as evidence of his authority to bind the surety on the date of execution of the bonds. All signatures must be original. No Xeroxed or facsimile signatures will be accepted. All Contract s, Public Construction Bond, and respective powers-of-attorney will have the same date.
4. In the event the Surety Company becomes unsatisfactory to Owner, Owner may at its discretion, require from Contractor an additional or new bond in the same or lesser penal sum, satisfactory to Owner, and to be conditioned as above required. Upon Contractor's failure to furnish such additional or new bond within ten (10) days from the date of written notice to do so, all payments under the Contract will be withheld until such additional bond is furnished.

END OF SECTION

# Contractor's Application For Payment No. \_\_\_\_\_

	Application Period:	Application Date:
To (Owner): City of Wauchula	From (Contractor):	Via (Engineer)
Project: SR 636 Pavement Repair	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.:

## APPLICATION FOR PAYMENT

### Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
TOTALS		
NET CHANGE BY CHANGE ORDERS		

1. ORIGINAL CONTRACT PRICE.....	\$	
2. Net change by Change Orders.....	\$	
3. CURRENT CONTRACT PRICE (Line 1 ± 2).....	\$	
4. TOTAL COMPLETED AND STORED TO DATE		
(Column F on Progress Estimate) .....	\$	
5. RETAINAGE:		
a. _____ % x \$ _____ Work Completed.....	\$	
b. _____ % x \$ _____ Stored Material .....	\$	
c. Total Retainage (Line 5a + Line 5b) .....	\$	
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c).....	\$	
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$	
8. AMOUNT DUE THIS APPLICATION.....	\$	
9. BALANCE TO FINISH, PLUS RETAINAGE		
(Column G on Progress Estimate + Line 5 above).....	\$	

## CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that, to the best of its knowledge, the following:  
 (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and (3) All Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

## CONTRACTOR SIGNATURE

By:	Date:
-----	-------

Payment of:	\$ _____	(Line 8 or other - attach explanation of other amount)
is recommended by:	_____	_____ (Date)
	(Engineer)	
Payment of:	\$ _____	(Line 8 or other - attach explanation of the other amount)
is approved by:	_____	_____ (Date)
	(Owner)	
Approved by:	_____	_____ (Date)
	Funding Agency (if applicable)	

## Progress Estimate - Lump Sum Work

## Contractor's Application

For (Contract):					Application Number:			
Application Period:					Application Date:			
A		B	Work Completed		E	F		G
Item		Scheduled Value (\$)	C	D	Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (F/B)	Balance to Finish (B - F)
Specification Section No.	Description		From Previous Application (C + D)	This Period				
	Totals							

### Progress Estimate – Unit Price Work

## Contractor's Application

[illegible]

Stored Material Summary

Contractor's Application

	For (Contract):					Application Number:				
	Application Period:					Application Date:				
A		B	C	D		E	Subtotal Amount Completed and Stored to Date (D + E)	F		G
Bid Item No.	Supplier Invoice No.	Submittal No. (with Spec Section No.)	Description of Materials or Equipment Stored	Stored Previously		Amount Stored this Month (\$)		Date (Month/Year)	Amount (\$)	Materials Remaining in Storage (\$) (D + E - F)
				Date Placed into Storage (Month/Year)	Amount (\$)					
Totals										

**SECTION 00 63 63  
CHANGE ORDER**

**Change Order No.** \_\_\_\_\_

Date of Issuance:	Effective Date:
Owner: City of Wauchula	Owner's Contract No.:
Contractor:	Contractor's Project No.:
Engineer: Chastain-Skillman, Inc.	Engineer's Project No.: 10371.01
Project: Downing Circle Milling & Resurfacing	Contract Name:

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

Description:

Attachments: *[List documents supporting change]*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. __ to No. __: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. __ to No. __: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ _____	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

<b>RECOMMENDED:</b>	<b>ACCEPTED:</b>	<b>ACCEPTED:</b>
By: _____ Engineer (if required)	By: _____ Owner	By: _____ Contractor (Authorized
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

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**SECTION 00 65 16**  
**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Owner: City of Wauchula	Owner's Contract No.:
Contractor:	Contractor's Project No.:
Engineer: Chastain-Skillman, Inc.	Engineer's Project No.: 10371.01
Project: Downing Circle Milling & Resurfacing	Contract Name:

**This [preliminary] [final] Certificate of Substantial Completion applies to:**

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

**Date of Substantial Completion**

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

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

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

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

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

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

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

<b>EXECUTED BY ENGINEER:</b>	<b>RECEIVED:</b>	<b>RECEIVED:</b>
By: _____ (Authorized signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor(Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

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

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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## ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

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

has declined to address. A demand for money or services by a third party is not a Claim.

11. ***Constituent of Concern***—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. ***Contract***—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. ***Contract Documents***—Those items so designated in the Agreement, and which together comprise the Contract.
14. ***Contract Price***—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. ***Contract Times***—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. ***Contractor***—The individual or entity with which Owner has contracted for performance of the Work.
17. ***Cost of the Work***—See Paragraph 13.01 for definition.
18. ***Drawings***—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. ***Effective Date of the Contract***—The date, indicated in the Agreement, on which the Contract becomes effective.
20. ***Engineer***—The individual or entity named as such in the Agreement.
21. ***Field Order***—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. ***Hazardous Environmental Condition***—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. ***Laws and Regulations; Laws or Regulations***—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

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

37. **Site**—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. **Specifications**—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. **Subcontractor**—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. **Substantial Completion**—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. **Successful Bidder**—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. **Supplementary Conditions**—The part of the Contract that amends or supplements these General Conditions.
43. **Supplier**—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. **Technical Data**—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. **Underground Facilities**—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. **Unit Price Work**—Work to be paid for on the basis of unit prices.
47. **Work**—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

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

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## **ARTICLE 2 – PRELIMINARY MATTERS**

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

- A. ***Bonds:*** When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. ***Evidence of Contractor’s Insurance:*** When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. ***Evidence of Owner’s Insurance:*** After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### **2.02 *Copies of Documents***

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

### **2.03 *Before Starting Construction***

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

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Initial Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

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

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

### **ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

#### **3.01 *Intent***

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

#### **3.02 *Reference Standards***

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

#### **3.03 *Reporting and Resolving Discrepancies***

- A. *Reporting Discrepancies:*
  - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. ***Contractor's Review of Contract Documents:*** If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

**B. *Resolving Discrepancies:***

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

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

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

### 3.05 *Reuse of Documents*

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

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

### 4.01 *Commencement of Contract Times; Notice to Proceed*

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

### 4.02 *Starting the Work*

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

### 4.03 *Reference Points*

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

### 4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

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

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  2. abnormal weather conditions;
  3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
  4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

## **ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

### **5.01 *Availability of Lands***

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

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

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

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

### 5.03 *Subsurface and Physical Conditions*

- A. ***Reports and Drawings:*** The Supplementary Conditions identify:
  - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
  - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
  - 3. Technical Data contained in such reports and drawings.
- B. ***Reliance by Contractor on Technical Data Authorized:*** Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
  - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
  - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 5.04 *Differing Subsurface or Physical Conditions*

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

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

- B. ***Engineer's Review:*** After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. ***Owner's Statement to Contractor Regarding Site Condition:*** After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. ***Possible Price and Times Adjustments:***
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

- c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
  - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
  - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
  - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

#### 5.05 *Underground Facilities*

- A. ***Contractor's Responsibilities:*** The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
  1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
  2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
    - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
    - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
    - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
    - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. ***Notice by Contractor:*** If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. ***Engineer's Review:*** Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. ***Owner's Statement to Contractor Regarding Underground Facility:*** After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. ***Possible Price and Times Adjustments:***
  - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
    - d. Contractor gave the notice required in Paragraph 5.05.B.
  - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
  - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
  2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

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

## ARTICLE 6 – BONDS, INDEMNITY, AND INSURANCE

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

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

### 6.02 *Insurance—General Provisions*

- A. Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is

maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- D. Failure of Owner to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the Contractor's obligation to obtain and maintain such insurance.
- E. If Contractor does not purchase or maintain all of the insurance required of such party by the Contract, Owner shall notify the Contractor in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- F. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- G. Without prejudice to any other right or remedy, if Contractor has failed to obtain required insurance, the Owner may elect to obtain equivalent insurance to protect the Owner's interests at the expense of the Contractor who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- H. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- I. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

#### 6.03 *Contractor's Insurance and Indemnity Requirements*

##### A. Environmental Indemnity

The Contractor shall hold harmless, indemnify, and defend the Owner and the Engineer, including without limitation, its officers, directors, members, representatives, affiliates, agents and employees, successors and assigns (the "Indemnified Parties") and will reimburse the Indemnified Parties from and against any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) arising from or in connection with (a) the Contractor's, including, but not limited to, its agents, affiliates or assigns ("Parties"), actions or activities that result in a violation of any environmental law, ordinance, rule, or regulation or that leads to an environmental claim or citation or to damages due to the Contractor's or other Parties' activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with this contract by the Contractor or any Party at any time on or after the effective date of the contract, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Contractor or any Party. The Owner will be entitled to control any remedial action or any proceeding relating to an environmental claim. This indemnification agreement is separate and apart from, and is

in no way limited by, any insurance provided pursuant to this Contract or otherwise. This section relating to indemnification shall survive the Term of this Contract, and any holdover and/or Contract extensions thereto, whether such Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Contract.

#### B. Indemnification

1. Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, the Owner and Contractor agree to allocate such liabilities in accordance with this Section. The parties agree that one percent (1%) of the total compensation paid to Contractor for the services performed under this Agreement constitutes specific consideration to Contractor for the indemnification provided under this Agreement.

2. The Contractor shall hold harmless, indemnify, and defend the Owner and the Engineer against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the negligence, recklessness or intentional wrongful misconduct of the Contractor and any person or entity used by Contractor in the performance of this Contract or Work performed there under. For purposes of this Indemnification, the term "Owner" shall mean the Owner as a body politic and corporate and shall include its governing board, officers, employees, agents, successors and assigns. This indemnification shall survive the term of a Contract entered into pursuant to this solicitation, for events that occurred during the Contract term. This indemnification shall be separate and apart from, and in addition to, any other indemnification provisions set forth elsewhere in this Contract.

#### C. Insurance Requirements

1. Before starting and for four years beyond Final Acceptance of the Work, and without limiting its liability under the Contract, the Contractor shall procure and maintain at its sole expense, insurance of the types and in the minimum amounts set forth below and as stated in the Supplementary Conditions at SC 6.03:

##### *Type of Insurance*

##### Workers' Compensation

Statutory Limits (Worker's Comp) as required by Florida law

Florida Statutory Coverage and Employer's Liability  
(including appropriate Federal Acts)

##### Contractor's General Liability

Completed Operations and Products Liability

Property damage and bodily injury

##### *Personal Injury Liability*

Property Damage Liability insurance will provide Explosion, Collapse and Underground Hazards (XCU Coverage) as appropriate

##### *Automobile Liability*

Bodily Injury

Property Damage

*Contractual Liability*

Bodily Injury

Property Damage

*Builder's Risk Insurance*

Amount to be determined by Owner

The Contractor's General Liability policies shall be effective for four (4) years after the Work is complete. The above Indemnification provision is separate and is not limited by the type of insurance or insurance amounts stated above.

2. The Contractor shall specify the Owner and the Engineer as additional insureds for all coverage except Workers' Compensation and Employer's Liability. Such insurance shall be primary to any and all other insurance or self-insurance maintained by the Owner.
3. Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to the Owner. Prior to commencing any Work under this Contract, certificates evidencing the maintenance of the insurance shall be furnished to the Owner for approval.
4. The Contractor's and its Subcontractors' Certificates of Insurance shall be mailed to the Owner at City of Wauchula, 126 South 7th Avenue, Wauchula, Florida 33873.
5. The insurance certificates shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until thirty (30) days after receipt of written notice by the Owner.
6. Any subcontractors of the Contractor shall procure and maintain the insurance required of the Contractor hereunder during the life of the subcontract. Subcontractors' insurance may be either by separate coverage or by endorsement under insurance provided by the Contractor.

## ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

### 7.01 *Supervision and Superintendence*

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

### 7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner’s written consent, which will not be unreasonably withheld.

### 7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

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

#### 7.04 “Or Equals”

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

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

#### 7.05 *Substitutes*

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design,
      - 2) be similar in substance to that specified, and
      - 3) be suited to the same use as that specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
      - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
    - c. will identify:
      - 1) all variations of the proposed substitute item from that specified, and

- 2) available engineering, sales, maintenance, repair, and replacement services.
- d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. **Engineer's Evaluation and Determination:** Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. **Special Guarantee:** Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. **Reimbursement of Engineer's Cost:** Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. **Contractor's Expense:** Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. **Effect of Engineer's Determination:** If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

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

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

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

7.08 *Permits*

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

#### 7.09 *Taxes*

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

#### 7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.11 *Record Documents*

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

#### 7.12 *Safety and Protection*

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

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
  - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
  - D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
  - E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
  - F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
  - G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

#### 7.13 *Safety Representative*

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

#### 7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or

exchanged between or among employers at the Site in accordance with Laws or Regulations.

#### 7.15 *Emergencies*

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

#### 7.16 *Shop Drawings, Samples, and Other Submittals*

##### A. *Shop Drawing and Sample Submittal Requirements:*

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

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

##### 1. *Shop Drawings:*

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

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

2. **Samples:**

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

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

C. **Other Submittals:** Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. **Engineer's Review:**

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

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

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

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal;
  6. the issuance of a notice of acceptability by Engineer;
  7. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.

- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
  - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

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

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

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

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

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

## 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

## 8.03 *Legal Relationships*

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

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

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

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

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

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

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

### **9.03    *Furnish Data***

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

### **9.04    *Pay When Due***

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

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

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

### **9.06    *Insurance***

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

### **9.07    *Change Orders***

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

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

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

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

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

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

10.08 *Limitations on Engineer's Authority and Responsibilities*

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

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *Compliance with Safety Program*

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

### **ARTICLE 11 - AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK**

#### 11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a written Change Order, a Work Change Directive, or a Field Order signed by the Owner/City.
  - 1. *Change Orders:*
    - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
    - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
  - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

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

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

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

#### 11.03 *Unauthorized Changes in the Work*

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

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on

the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. **Contractor's Fee:** When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
  - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
  - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
  - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
  - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
  - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
  - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 **Change of Contract Times**

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 **Change Proposals**

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

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. **Procedures:** Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
  2. **Engineer's Action:** Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
  3. **Binding Decision:** Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. **Resolution of Certain Change Proposals:** If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

#### 11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

#### 11.08 *Notification to Surety*

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

### ARTICLE 12 - CLAIMS

#### 12.01 *Claims*

- A. ***Claims Process:*** The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
  - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
  - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. ***Submittal of Claim:*** The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. ***Review and Resolution:*** The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. ***Mediation:***
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim

submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. ***Partial Approval:*** If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. ***Denial of Claim:*** If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. ***Final and Binding Results:*** If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## **ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **13.01 Cost of the Work**

- A. ***Purposes for Determination of Cost of the Work:*** The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. ***Costs Included:*** Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
  1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable

thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

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

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. **Contractor's Fee:** When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. **Documentation:** Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 13.02 Allowances

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

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

#### 13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
  - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
  - 2. there is no corresponding adjustment with respect to any other item of Work; and
  - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

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

### **14.01    *Access to Work***

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

### **14.02    *Tests, Inspections, and Approvals***

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

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

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

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

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

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

#### 14.06 *Owner May Stop the Work*

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

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

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

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

### **15.01 Progress Payments**

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

- a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

**D. *Payment Becomes Due:***

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

**E. *Reductions in Payment by Owner:***

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
  - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. the Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. the Contract Price has been reduced by Change Orders;
  - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
  - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
  - l. there are other items entitling Owner to a set off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 *Contractor's Warranty of Title*

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

#### 15.03 *Substantial Completion*

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

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

#### 15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
  - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
  - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
  - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
  - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

- A. *Application for Payment:*
  - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

**B. *Engineer's Review of Application and Acceptance:***

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. ***Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. ***Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such other adjacent areas;
  - 2. correct such defective Work;
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

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

### **16.01 *Owner May Suspend Work***

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

### **16.02 *Owner May Terminate for Cause***

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

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

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

#### 16.03 *Owner May Terminate For Convenience*

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

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

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

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

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

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

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

## **ARTICLE 18 – MISCELLANEOUS**

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

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
  - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

### **18.02 *Computation of Times***

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

### **18.03 *Cumulative Remedies***

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

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and any other claim arising out of or related to this Agreement or the Work performed thereunder, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages, including but not limited to consequential damages, sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Headings*

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

18.08 *E-Verify Requirements.*

- A. Effective January 1, 2021, public and private employers, contractors, and subcontractors must require registration with, and use of the E-Verify system in order to verify the work authorization status of all newly hired employees. CONTRACTOR shall:
  - (1) Utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by CONSULTANT during the term of the Agreement; and
  - (2) Expressly require all persons (including subcontractors/subvendors/ subconsultants) assigned by CONTRACTOR to perform work or provide services pursuant to the Agreement with the City to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the subcontractors/subvendors/subconsultants during the term of the Agreement. CONTRACTOR acknowledges and agrees that the use of the U.S. Department of Homeland Security's E-Verify System during the term of this Agreement is a condition of the Agreement with the City.
- B. By entering this Agreement with the City, CONTRACTOR becomes obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility." This includes, but is not limited to, use of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to CONTRACTOR attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. CONTRACTOR agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this section will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, and CONTRACTOR may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. CONTRACTOR will also be liable for any additional costs to City incurred as a result of the termination of this

#### 18.09 Contractor's Labor Relations

- A. The Contractor shall negotiate and resolve any disputes between the Contractor and its employees, or anyone representing its employees. The Contractor shall immediately notify the Owner of any actual or potential labor dispute that may affect the Work and shall inform the Owner of all actions it is taking to resolve the dispute.

#### 18.11 Minimum Qualifications of Contractor Personnel

- A. All Contractor personnel shall be at a minimum qualified for the tasks they are assigned. All Contractor personnel shall act in a professional manner, with due sensitivity to other persons at the Work Location. If the Owner, at its sole discretion, determines that a Contractor's person is unqualified, unfit, or otherwise unsuitable for the tasks assigned, the Contractor shall immediately stop the person from performing the tasks, and replace the person with a qualified individual. The Contractor shall pay all costs associated with replacing the unqualified person including, but not limited to, termination, recruiting, training, and certification costs.
- B. The Contractor personnel assigned supervisory roles, and those with increased authority shall be held to strict scrutiny of their qualifications and suitability for their positions. In addition to the other provisions of this clause, the Contractor shall provide written documentation as to experience, education, licenses, certifications, professional affiliations, and other qualifications of the individual, within one (1) day of request from the Engineer. Any changes to such personnel after approval shall require the written permission of the Engineer.

#### 18.12 Nondiscrimination

- A. CONTRACTOR warrants and represents that all of its employees are treated equally both during the hiring process and during employment without regard to race, color, religion, sex, gender, age, disability, or national origin, and that it shall not discriminate on the basis of race, color, religion, sex, gender, age, disability, or national origin in the award or performance of any subcontracts or services subcontracted to fulfill CONTRACTOR's duties under this Agreement.
- B. Discriminatory Vendor List. CONTRACTOR hereby acknowledges its continuous duty to disclose to the City if CONTRACTOR or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, has been placed on the Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

#### 18.13 Governing Law, Waiver of Jury Trial Choice of Law

- A. This Agreement shall be governed in all respects by the laws of the State of Florida without regard to its conflict of laws provisions. Each of the parties irrevocably submits to the exclusive jurisdiction of the courts of Florida, and further agree that the venue for

any legal action brought by or filed against the Owner relating to any matter arising under this Contract shall be exclusively in that state or federal court, sitting in Hardee County, Florida that has jurisdiction over such legal actions.

**B. WAIVER OF JURY TRIAL. BY ENTERING INTO THIS AGREEMENT, THE CONTRACTOR AND THE CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.**

18.14 Compliance with Laws, and including Public Record Laws

A. Public Records. The parties acknowledge and agree that the City is a public agency subject to Chapter 119, Florida Statutes. To the extent CONSULTANT is a company acting on behalf of the City pursuant to Section 119.0701, Florida Statutes, CONSULTANT must comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with Chapter 119, Florida Statutes, CONSULTANT agrees to:

- (1) Keep and maintain all records that ordinarily and necessarily would be required by the City to perform the services under this Agreement.
- (2) Upon request from the City, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (3) Ensure that public records that are exempt, or confidential and exempt, from public records disclosures are not disclosed as except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the City.
- (4) Upon completion of the services under this Agreement, at no cost, either transfer to the City all public records in the CONTRACTOR's possession or keep and maintain public records required by the City to perform the services. If the CONTRACTOR transfers all public records to the City upon completion of the services, the CONTRACTOR must destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the services under this Agreement, the CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City, in a format that is compatible with the information technology systems of the City.
- (5) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT: \_\_\_\_\_**

If the CONTRACTOR does not comply with the provisions of this section, the City will enforce the Agreement

provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with Florida law.

B. Drug Free Workplace. CONTRACTOR shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 USC § 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place issued by the Office of Management and Budget to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the CONTRACTOR shall comply with the relevant provisions thereof, including any amendments, which are made part of this Agreement.

C. Public Entity Crimes, Scrutinized Companies pursuant to Section 287.135 and Section 215.473, Florida Statutes.

- (1) Pursuant to Section 287.133(2)(a), Florida Statutes, CONTRACTOR hereby certifies that neither it nor its affiliate(s) have been placed on the convicted vendor list following a conviction for a public entity crime. If placed on that list, CONTRACTOR must notify the City immediately and may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- (2) CONTRACTOR hereby certifies that it: (a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; (b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and (c) has not been engaged in business operations in Cuba or Syria. If City determines that CONTRACTOR has falsely certified facts under this Paragraph or if CONTRACTOR is found to have been placed on the Scrutinized Companies Lists or is engaged in a boycott of Israel after the execution of this Agreement, City will have all rights and remedies to terminate this Agreement consistent with Section 287.135, Florida Statutes.

**SECTION 00 73 00  
SUPPLEMENTARY CONDITIONS**

1. Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof. Where the term "City" is used in the Contract Documents, it shall have the same meaning as "Owner" as defined in the General Conditions.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

2. SC-2.02 Copies of Documents

Delete Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Owner shall furnish to Contractor up to three (3) printed or hard copies of the Contract Documents, and one set in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.

3. SC-6.01 Performance, Payment, and Other Bonds

Refer to the Statutory Requirements Section 00 73 73 for changes to this condition regarding Public Construction Bonds.

4. SC-6.03 Contractor's Liability Insurance

Add the following new paragraph immediately after Paragraph 6.03(C):

D. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

- 1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

(1) State:

Statutory

- |     |  |   |
|-----|--|---|
| (2) | Applicable Federal<br>(e.g. Longshoreman's): | Statutory   |
| (3) | Employer's Liability:                        | \$ 500,000 each accident<br>\$ 500,000 each employee<br>\$ 500,000 each disease |
2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C. of the General Conditions:
- |    |   |             |
|----|---|-------------|
| a. | General Aggregate<br>(Except Products -<br>Completed Operations)  | \$1,000,000 |
| b. | Products - Completed<br>Operations Aggregate  | \$1,000,000 |
| c. | Personal and Advertising<br>Injury  | \$1,000,000 |
| d. | Each Occurrence<br>(Bodily Injury and<br>Property Damage)   | \$1,000,000 |
| e. | Fire Damage Liability   | \$ 100,000  |
| f. | Personal Injury Liability<br>Coverage will include Claims<br>arising out of Employment.   | Yes         |
| g. | Exclusions for damage to<br>Property in Contractor's Care,<br>Custody or Control to be<br>deleted.                                    | Yes         |
| h. | Property Damage liability<br>insurance will provide<br>Explosion, Collapse, and<br>Underground (x,c,u) coverages<br>where applicable. | Yes         |
| i. | Watercraft exclusion to be deleted.   | Yes         |
| j. | Broad Form Contractual Liability to be provided under the<br>General Liability policy.  |             |
3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:
- |    |                          |             |
|----|--------------------------|-------------|
| a. | Combined single limit of | \$1,000,000 |
|----|--------------------------|-------------|
4. Excess or Umbrella Liability:
- |    |                   |             |
|----|-------------------|-------------|
| a. | Per Occurrence    | \$1,000,000 |
| b. | General Aggregate | \$1,000,000 |

5. Contractor's Pollution Liability:

- |    |                   |             |
|----|-------------------|-------------|
| a. | Each Occurrence   | \$1,000,000 |
| b. | General Aggregate | \$2,000,000 |

6. Additional Insureds: In addition to Owner (City of Wauchula) and Engineer (Chastain-Skillman, Inc.), include as additional insureds the following: Engineer's Consultant (Madrid Engineering Group, Inc.)

Contractor shall provide the following two endorsements to the General Liability policy:

- |    |   |
|----|---|
| a. | CG 20 10 07 04 – Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization |
| b. | CG 20 37 07 04 – Additional Insured – Owners, Lessees or Contractors – Completed Operations             |

5. SC-6.04 Property Insurance

A. Contractor shall provide and maintain installation floater insurance for property under the care, custody, or control of Contractor. The installation floater insurance shall be a broad form or "all risk" policy providing coverage for all materials, supplies, machinery, fixtures, and equipment that will be incorporated into the Work. Coverage under the Contractor's installation floater will include:

1. Any loss to property while in transit
2. Any loss at the Site
3. Any loss while in storage, both on-site and off-site

Coverage cannot be contingent on an external cause or risk, or limited to property for which the Contractor is legally liable. The Contractor will be solely responsible for any deductible carried under this coverage and claims on materials, supplies, machinery, fixture, and equipment that will be incorporated into the Work while in transit or in storage. This policy will include a waiver of subrogation applicable to Owner, Contractor, Engineer, all Subcontractors, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them.

6. SC-7.02 Labor; Working Hours

Add the following new subparagraphs immediately after Paragraph 7.02.B:

1. Working hours will be 8:00 PM to 6:00 AM.

7. SC-7.06 Concerning Subcontractors, Suppliers, and Others

Within five days after the Bid Opening, and prior to the Notice of Award, the apparent Successful Bidder shall submit **CERTIFICATION OF SUBLET WORK** (FDOT Form 700-010-36). All subcontract work must be included in a certified copy of the above referenced form and sublet work cannot exceed the percentage of the total contract amount stated in Section 8 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, 2015.

8. SC-7.08 Permits

Add the following new paragraph immediately after Paragraph 7.08.A:

B. The following permits have been or will be obtained by the Owner for the construction of this Work:

Permit: Utility Permits  
Issuing Agency: Florida Department of Transportation  
Approval Nos.:

Contractor shall comply with all conditions of these permits.  
Copies of permits obtained by the Owner are included in Attachment C.

9. SC-7.12 Safety and Protection

Refer to the Statutory Requirements Section 00 73 73 for changes to this condition regarding the Trench Safety Act.

10. SC-10.03 Project Representative

Add the following new paragraph immediately after Paragraph 10.03.A:

B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.

1. General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.

2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.
3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.
4. Liaison:
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. Interpretation of Contract Documents: Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. Shop Drawings and Samples:
  - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. Review of Work and Rejection of Defective Work:
  - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents, or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress

that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. Inspections, Tests, and System Start-ups:
  - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
  - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
10. Records:
  - a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
  - b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
  - c. Maintain records for use in preparing Project documentation.
11. Reports:
  - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
  - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
  - c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.
12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
13. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and

maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. Completion:

- a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.
- b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the work.

C. The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

11. SC-14.02 Tests, Inspections, and Approval

Delete paragraph 14.02.B in its entirety and insert the following in its place:

- B. Contractor shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents.

12. SC-15.01 Progress Payments

Refer to the Statutory Requirements Section 00 73 73 for changes to this condition regarding Retainage.

13. SC-15.03 Substantial Completion

Refer to the Statutory Requirements Section 00 73 73 for changes to this condition regarding Substantial Completion.

14. SC-18.09 Miscellaneous

Refer to the Statutory Requirements Section 00 73 73 for changes to this condition regarding Public Records Compliance.

END OF SECTION

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## **SECTION 00 73 73 STATUTORY REQUIREMENTS**

### **1.     Statutory Requirements**

These Statutory Requirements amend or supplement the Standard General Conditions of the Construction Contract EJCDC® C-700 (2013 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not amended or supplemented remain in full force and effect.

The terms used in these Statutory Requirements have the meanings stated in the General Conditions. Additional terms used in these Statutory Requirements have the meanings stated below, which are applicable to both the singular and plural thereof. Where the term “local governmental entity” is used in the Statutory language, it shall have the same meaning as “Owner” as defined in the General Conditions. Where the term “cost” is used in the Statutory language, it shall have the same meaning as “Contract Price” as defined in the General Conditions.

### **2.     SC-6.01     Performance, Payment, and Other Bonds**

Delete Paragraph 6.01.A in its entirety and insert the following new paragraph in its place:

"Contractor shall furnish a Public Construction Bond in complete accordance with Florida Statutes Section 255.05, in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. This Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Supplementary Conditions. Bonds shall be in the form prescribed by Florida Statutes Section 255.05 and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. Refer to Bond requirements as contained in the advertisement for bid for further information.

3. SC-7.12 Safety and Protection

A. Trench Safety Act

The Contractor shall comply with the statutory requirements in accordance with Chapter 553 F.S. The purpose and intent of this act is to provide for increased worker safety by requiring compliance with sufficient standards for trench safety as follows:

1. The Occupational Safety and Health Administration's excavation safety standards, 29 C.F.R. s. 1926.650 Subpart P, are hereby incorporated as the state standard. The <sup>1</sup>Department of Labor and Employment Security may, by rule, adopt updated or revised versions of those standards, provided that the updated or revised versions are consistent with the intent expressed in this act and s. 553.72, and are not otherwise inconsistent with state law. Any rule adopted as provided in this section shall be complied with upon its effective date.
2. On all specific contracts for trench excavation in which such excavation will exceed a depth of 5 feet:
  - (1) The contract bid submitted by the contractor who will perform such excavation shall include:
    - (a) A reference to the trench safety standards that will be in effect during the period of construction of the project.
    - (b) Written assurance by the contractor performing the trench excavation that such contractor will comply with the applicable trench safety standards.
    - (c) A separate item identifying the cost of compliance with the applicable trench safety standards.
  - (2) A contractor performing trench excavation shall:
    - (a) As a minimum, comply with the excavation safety standards which are applicable to a project.
    - (b) Adhere to any special shoring requirements, if any, of the state or other political subdivisions which may be applicable to such a project.
    - (c) If any geotechnical information is available from the owner, the contractor, or otherwise, the contractor performing trench excavation shall consider this information in the contractor's design of the trench safety system which it will employ on the project. This paragraph shall not require the owner to obtain geotechnical information.

## B. Underground Facility Damage Prevention and Safety Act

The contractor shall comply with the statutory requirements in accordance with Chapter 556 F.S. The purpose and intent of this act is to provide access for excavating contractors and the public to provide notification to the system of their intent to engage in excavation or demolition. This notification system shall provide the member operators an opportunity to identify and locate their underground facilities. Under this notification system, Sunshine State One-Call of Florida, Inc., is not required or permitted to locate or mark underground facilities.

It is the purpose of this Act to aid the public by preventing injury to persons or property and the interruption of services resulting from damage to an underground facility caused by excavation or demolition operations; permit any local law enforcement officer, local government code inspector, or code enforcement officer to enforce this chapter without the need to incorporate the provisions of this chapter into any local code or ordinance; and foster the awareness of federal laws and regulations that promote safety with respect to underground facilities, including, but not limited to, the Federal Pipeline Safety Act of 1968, as amended, the Pipeline Safety Improvement Act of 2002, OSHA Standard 1926.651, and the National Electric Safety Code, ANSI C-2, by requiring and facilitating the advance notice of activities by those who engage in excavation or demolition operations.

### 4. SC-15.01 Retainage

For contracts exceeding \$200,000, the schedule for release of retainage as outlined in Sections 15.01 of the General Conditions shall be determined based on the following statutory requirements in accordance with Section 255.078 F.S.:

1. With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage until 50-percent completion of such services.
2. After 50-percent completion of the construction services purchased pursuant to the contract, the public entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this section, the term "50-percent completion" has the meaning set forth in the contract between the public entity and the contractor or, if not defined in the contract, the point at which the public entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract.
3. After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments

- to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the public entity.
4. After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public entity. The public entity shall promptly make payment to the contractor, unless the public entity has grounds, pursuant to subsection 6., for withholding the payment of retainage. If the public entity makes payment of retainage to the contractor under this subsection which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.
  5. Neither this section nor S. 255.077 prohibits a public entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the public entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a public entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.
  6. Neither this section nor S. 255.077 requires the public entity to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to S. 255.05, or otherwise the subject of a claim or demand by the public entity or contractor.
  7. The same time limits for payment of a payment request apply regardless of whether the payment request is for, or includes, retainage.
  8. Subsections 1. – 4. do not apply to construction services purchased by a public entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Florida Prompt Payment Act.

5.     SC-15.03     Substantial Completion

For the purposes of project closeout as outlined in Section 15.03 of the General Conditions, the following statutory requirements in accordance with Section 255.077 F.S. shall govern:

- A.     The local governmental entity must provide to the Contractor a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity, as follows:
  - 1.    For a construction project having an estimated cost of less than \$10 million, within 30 days after reaching substantial completion of the construction services purchased as defined in the Contract, or, if not defined in the Contract, upon reaching beneficial occupancy or use; or
  - 2.    For a construction project having an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by Contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the Contract, or, if not defined in the Contract, upon reaching beneficial occupancy or use.
- B.     Upon completion of all items on the list, the Contractor may submit payment request for all remaining retainage withheld by the public entity pursuant to Section 255.078. If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the Contract, the public entity may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

6.     SC-18           Miscellaneous

Add the following new paragraph immediately after Paragraph 18.08:

END OF SECTION

## **DIVISION 01**

### **GENERAL REQUIREMENTS**

**SECTION 01 10 00**  
**SUMMARY**

**PART 1 - GENERAL**

1.01 SECTION INCLUDES

- A. Work by Contractor.
- B. Work by Owner.
- C. Owner Furnished Products.
- D. Contractor use of site (and premises).
- E. Work sequence.

1.02 WORK BY CONTRACTOR

- A. The work of this contract generally consists of milling and resurfacing the pavement for Downing Circle, in Wauchula, Florida. The existing pavement surface shall be milled to a depth of 1-inch. The milled surface shall then be overlaid with 1 ¼ inches of SP-9.5 asphaltic concrete surface course. Two ADA Mats, Crosswalk, Stop bars and 6" Double Yellow Striping shall be placed as shown on the plans. The Contractor shall be responsible for all Maintenance of Traffic. All workmanship and materials shall be in accordance with the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (Latest Edition).

1.03 WORK BY OWNER

- A. Owner will obtain permits listed in the Supplementary Conditions that affect the installation of the Work.
- B. Copies of all permits obtained by the Owner are provided in Appendix C. All provisions and restrictions in these permits shall be part of the Contract requirements.

#### 1.04 OWNER FURNISHED PRODUCTS

- A. There are no Owner furnished products for this project. Contractor shall supply all products required to complete the project.

#### 1.05 CONTRACTOR USE OF SITE

- A. Nothing in this Contract shall imply that the Contractor shall have exclusive use of roadways on public and private lands of the execution to the work.
- B. All other lands including temporary construction easements deemed necessary by the Contractor for construction operations, temporary facilities, the storage of materials and equipment and other facilities required for the execution of the work shall be obtained by the Contractor.
- C. Limit use of site for work and for construction operations.
- D. Schedule work activities at the site during daylight hours on regular week days, except as described in Section 1.02(B) above. Any scheduled work activities outside this period shall be approved in writing by both the Owner and the Engineer.
- E. Contractor shall not limit ingress and egress of adjacent public and private properties.

#### 1.06 WORK SEQUENCE

- A. Contractor shall follow a sequence of work activity that minimizes disturbances of the public and adjacent property owners and minimizes damage to components of the new work.
- B. Where installation of pipes is allowed by open cutting trenches in streets and driveways, the contractor shall maintain alternative ingress and egress at all times of all such open-cut activities. Affected parties shall be notified at least 48 hours in advanced.

### **PART 2 - PRODUCTS**

Not Used

### **PART 3 - EXECUTION**

Not Used

END OF SECTION

**SECTION 01 20 00**  
**PRICE AND PAYMENT PROCEDURES**

**PART 1 - GENERAL**

1.01 SECTION INCLUDES

- A. Procedure for Measurement.
- B. Incidental Work.
- C. Unit Prices.
- D. Substitution Procedures.
- E. Contract Modification Procedures.
- F. Payment Procedures.

1.02 RELATED SECTIONS

- A. Section 01 30 00 – Administrative Requirements.

1.03 PROCEDURE FOR MEASUREMENT

- A. For lump sum items, payment shall be made based on the lump sum prices set forth in the Bid Form based on level of completed Work as determined by the accepted Schedule of Values.
- B. For field measure unit-price items, payment shall be based on the actual amount of Work accepted and for the actual amount of materials in place, as shown by the final measurements.
  - 1. All units of measurement shall be standard United States convention as applied by the specific items of work by tradition and as interpreted by the Engineer.
  - 2. After the Work is completed and before final payment is made, the Engineer will make final field measurements to determine the quantities of various items of Work accepted as the basis for final settlement.

#### 1.04 INCIDENTAL WORK

- A. Incidental work items are items, specifically identified or not, that are an integral part of the completed project as required under the Contract Documents for which separate payment is not made. These items may include but are not limited to the following:
1. Pre-construction photographs and videos.
  2. Schedules, bonds, insurance, shop drawings, warranties, and other submittals required.
  3. Permits not obtained by the Owner.
  4. Clearing, grubbing, stripping, and disposal of vegetation.
  5. Providing additional fill material.
  6. Transport and disposal of excess material and debris.
  7. Containment and clean-up.
  8. Utility crossings and minor relocations unless payment is otherwise made.
  9. Temporary utility service.
  10. Temporary barriers and fences for the protection and security of the work site and adjoining properties.
  11. Final or temporary right-of-way restoration. All materials and Work for right-of-way restoration shall be in accordance with FDOT Standard Specifications for Road and Bridge Construction, latest edition.
  12. Repair and restoration of property, including the removal and replacement of stabilized roadway and driveways, guard rails, curbs, drainage structures, signs, traffic loop detectors, pavement markings, utility poles, mailboxes, landscaping and irrigation, and other items impacted by construction.
  13. On-going and final cleanup.
  14. Project record documentation, including the provision of “as-built” drawings certified by a Registered Professional Land Surveyor.
  15. All other items required for completion of the Contract.

#### 1.05 SUBSTITUTION PROCEDURES

- A. Engineer will consider requests for Substitutions only within 30 days after date established in Notice to Proceed following procedure required in Paragraph F.
- B. Substitutions not listed in Alternate Manufacturers/Suppliers list may only be considered when a product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.

- D. A request constitutes a representation that the Contractor:
1. Has investigated proposed product and determined that it meets or exceeds the quality level of the specified product.
  2. Will provide the same warranty for the Substitution as for the specified product.
  3. Will coordinate installation and make changes to other work which may be required for the Work to be complete with no additional cost to Owner.
  4. Waives claims for additional costs or time extension which may subsequently become apparent.
  5. Will reimburse Owner for review or redesign services associated with re-approval by authorities in accordance with Paragraph 6.05E of the Standard General Conditions.
  6. Understand that the Owner may, at his sole discretion, select any substitution proposed.
- E. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- F. Substitution Submittal Procedure:
1. Submit three copies of Alternate Manufacturers/Suppliers list and supporting documentation for consideration. Limit each request to one proposed Substitution. All proposed Substitutions, except in the case where products become unavailable, must be listed.
  2. Submit shop drawings, product data, certified test results and other equipment technical, performance and other details attesting to the proposed product equivalence as required by the Owner and/or as described in the Contract Documents.
  3. Submit data documenting the amount to be deducted from the Contract Price. The deduction must be an installed price and include any changes in Work necessary to accommodate the substitution in accordance with Paragraph 6.05A of the Standard General Conditions.
  4. The Engineer will notify Bidders, in writing, of decision to accept or reject request. If rejected, Contractor must use supplier/equipment identified in the Bid. If accepted, a Change Order will be issued reducing the Contract Price by the deductive amount stated on the Alternate Manufacturers/Suppliers form.

## 1.06 CONTRACT MODIFICATION PROCEDURES

- A. The Engineer will advise of minor changes in the Work not involving an adjustment to Contract Sum/Price or Contract Time as authorized by the Standard General Conditions by issuing supplemental instructions.

- B. The Engineer may issue a Notice of Change which includes a detailed description of a proposed change with supplementary or revised Drawings and specifications, and a change in Contract Time for executing the change. Contractor will prepare and submit an estimate within five (5) days.
- C. Stipulated Sum/Price Change Order: Based on Notice of Change and Contractor's fixed price quotation.
- D. Unit Price Change Order: For pre-determined unit prices, the Change Order will be executed on a fixed unit price basis. For unit costs or quantities of units of Work which are not pre-determined, execute Work under a Work Directive Change. Changes in Contract Sum/Price or Contract Time will be computed as specified for Time and Material Change Order.
- E. Work Directive Change: Engineer may issue a directive, on EJCDC Work Directive Change (Section 00 63 49) signed by the Owner, instructing the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work, and designate method of determining any change in Contract Sum/Price or Contract Time. Promptly execute the change.
- F. Time and Material Change Order: Submit itemized account and supporting data after completion of change, within time limits indicated in the Conditions of the Contract. Engineer will determine the change allowable in Contract Sum/Price and Contract Time as provided in the Contract Documents.
- G. Maintain detailed records of Work done on Time and Material basis. Provide full information required for evaluation of proposed changes, and to substantiate costs for changes in the Work.
- H. Change Order Forms: EJCDC Change Order (Section 00 63 63).
- I. Execution of Change Orders: Engineer will issue Change Orders for signatures of parties as provided in the Conditions of the Contract.

## 1.07 PAYMENT PROCEDURES

### A Schedule Of Values

- 1. Format: Utilize the Schedule of Values in the Bid Form. Identify each line item with number and title of the major specification Section. Identify site mobilization, bonds and insurance.
- 2. Include within each line item a direct proportional amount of Contractor's overhead and profit.
- 3. Revise schedule to list approved Change Orders with each Application for Payment.

- C. Progress Payment Procedures
  - 1. Submit applications for progress payments monthly as the work progresses in accordance with the provisions of the Supplemental and General Conditions.
  - 2. Submit three (3) copies of progress payment application. Utilize Schedule of Values for delineating items in Application for Payment.
  - 3. Progress payments shall be made based on estimated quantity of work unit completed and requested by the Contractor in the period and confirmed by the Engineer.
  
- D. Final Payment Procedures
  - 1. After all work is completed, the Owner and Engineer shall review the work for final acceptance and the Owner shall make final payment as set forth in the General and Supplementary Conditions.

## **PART 2 - PRODUCTS**

Not Used

## **PART 3 - EXECUTION**

Not Used

END OF SECTION

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**SECTION 01 30 00**  
**ADMINISTRATIVE REQUIREMENTS**

**PART 1 - GENERAL**

1.01 SECTION INCLUDES

- A. Project Management and Coordination
- B. Construction Progress Documentation
- C. Submittal Procedures

1.02 PROJECT MANAGEMENT AND COORDINATION

- A. Project Coordination
  - 1. Coordinate scheduling, submittals, and Work of the various Sections of specifications to assure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
  - 2. Verify that utility requirements characteristics of operating equipment are compatible with utilities. Coordinate work of various Sections having interdependent responsibilities for installing, connection to, and placing in service, such equipment.
  - 3. Coordinate completion and clean up of Work of separate Sections in preparation for Substantial Completion and for portions of Work designated for Owner's partial occupancy.
  - 4. After Owner occupancy of premises, coordinate access to site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of Owner's activities.
- B. Preconstruction Conference
  - 1. Owner will schedule a conference after Notice of Award.
  - 2. Attendance Required: Owner, Engineer and Contractor.
  - 3. Agenda:
    - a. Execution of Owner-Contractor Agreement.
    - b. Submission of executed bonds and insurance certificates.
    - c. Distribution of Contract Documents.
    - d. Submission of list of Subcontractors, list of products, Schedule of Values, and progress schedule.
    - e. Designation of personnel representing the parties in Contract, and the Engineer.

- f. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders and Contract closeout procedures.
- g. Scheduling.
- h. Scheduling activities of geo-technical Engineer.

C. Site Mobilization Conference

- 1. Engineer will schedule a conference at the Project site prior to Contractor occupancy.
- 2. Attendance Required: Owner, Engineer, Special Consultants, Contractor, Contractor's Superintendent, and major Subcontractors.
- 3. Agenda:
  - a. Use of premises by Owner and Contractor.
  - b. Owner's requirements and partial occupancy.
  - c. Construction facilities and controls provided by Owner.
  - d. Temporary utilities provided by Owner.
  - e. Survey layout.
  - f. Security and housekeeping procedures.
  - g. Schedules.
  - h. Procedures for testing.
  - i. Procedures for maintaining record documents.
  - j. Requirements for start-up of equipment.
  - k. Inspection and acceptance of equipment put into service during construction period.

D. Progress Meetings

- 1. Schedule and administer meetings throughout progress of the Work at maximum monthly intervals.
- 2. Make arrangements for meetings, prepare agenda with copies for participants, preside at meetings, record minutes, and distribute copies within two days to Engineer, Owner, participants, and those affected by decisions made.
- 3. Attendance Required: Job superintendent, major Subcontractors and suppliers, Owner, Engineer, as appropriate to agenda topics for each meeting.
- 4. Agenda:
  - a. Review minutes of previous meetings.
  - b. Review of Work progress.
  - c. Field observations, problems, and decisions.
  - d. Identification of problems which impede planned progress.
  - e. Review of submittals schedule and status of submittals.
  - f. Review of off-site fabrication and delivery schedules.
  - g. Maintenance of progress schedule
  - h. Corrective measures to regain projected schedules.
  - i. Planned progress during succeeding Work period.

- j. Coordination of projected progress.
- k. Maintenance of quality and Work standards.
- l. Effect of proposed changes of progress schedule and coordination.
- m. Other business relating to Work.

E. Pre-Installation Conferences

- 1. When required in individual specification Section, convene a pre-installation conference at Work site prior to commencing Work of the Section.
- 2. Require attendance of parties directly affecting, or affected by, Work of the specific Section.
- 3. Notify Engineer four days in advance of meeting date.
- 4. Prepare agenda, preside at conference, record minutes, and distribute copies within two days after conference to participants, with two copies to Engineer.
- 5. Review conditions of installation, preparation and installation procedures, and coordination with related Work.

### 1.03 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit network analysis diagram using the critical path method, generally as outlined in Associated General Contractors of America (AGC) publication "The Use of CPM in Construction - A Manual for General Contractors and the Construction Industry or other method approved by the Engineer.
- B. Show complete sequence of construction by activity, identifying Work of separate stages and other logically grouped activities. Indicate the early and late start, early and late finish, float dates, and duration.
- C. Indicate estimated percentage of completion for each item of Work at each submission.
- D. Indicate submittal dates required for shop drawings, product data, samples, and product delivery dates, including those furnished by Owner.
- E. Submit initial Progress Schedules in duplicate within 15 days after date of Owner-Contractor Agreement. After review by Engineer revise and resubmit as required. Submit revised schedules with each Application for Payment, reflecting changes since previous submittal.

## 1.04 SUBMITTAL PROCEDURES

### A. Procedures.

1. Deliver all submittals to the Engineer.
2. Transmit each item with a transmittal form identifying project, Contractor, subcontractor, major supplier; identify pertinent drawing sheet and detail number, and Specification section number, as appropriate. Submittals shall only be accepted from the Contractor.
3. Comply with progress schedule for submittals related to Work progress. Submit all Shop Drawings, Product Data, and Samples in a prompt and timely manner so that there will be no delay to Work due to absence of data. Coordinate submittal of related items.
4. Review Shop Drawings, Product Data and Samples prior to submission. Contractor shall stamp, date and sign each submittal to indicate that the subject matter conforms to the requirements of the Contract Documents.
5. Determine and verify:
  - a. Field measurements.
  - b. Field construction criteria.
  - c. Catalog numbers and similar data.
  - d. Conformance with specifications.
6. Coordinate each submittal with requirements of the Work and of the Contract Documents.
7. Notify the Engineer in writing, at time of submission, identifying any deviations in the submittals from requirements of the Contract Documents.
8. Should any submitted item require modification to any surrounding structure or appurtenance detailed on the drawings, details of the modifications shall also be submitted. The cost of any modifications shall be completed at no additional cost to the Owner.
9. Begin no fabrication or Work which requires submittals until return of submittals with Engineer review comments.
10. Provide submittals in a prompt and timely manner so as not to delay the Work. Delays in Work caused by incomplete or incorrect submittals or re-submittals shall not be grounds for time extensions or additional costs to the Owner.
11. After Engineer review of submittal, revise and resubmit as required, identifying changes made since previous submittal.
12. Distribute copies of reviewed submittals to concerned persons. Instruct recipients to promptly report any inability to comply with provisions.
13. Provide reasonable assurance that materials and equipment delivered to worksite conforms to the reviewed shop drawings. Notify the Engineer of any observed deviations from the shop drawings.

### B. Shop Drawings.

1. Shop drawings shall be assigned a sequential number for ease in identification. Re-submittals shall retain the assigned number with an alphabetic suffix.
2. Drawings shall be presented in a clear and thorough manner. Details shall be identified by reference to drawing and detail number, and specification section number.
3. Minimum sheet size: 8-1/2" x 11".
4. After review, distribute in accordance with Procedures, above.

C. Product Data

1. Preparation
  - a. Clearly mark each copy to identify pertinent products or models.
  - b. Show performance characteristics and capacities.
  - c. Show dimensions and clearances required.
  - d. Show wiring or piping diagrams and controls.
2. Manufacturer's standard schematic drawings and diagrams:
  - a. Modify drawings and diagrams to delete information which is not applicable to the Work.
  - b. Supplement standard information to provide information specifically applicable to the Work.
3. After review, distribute in accordance with Article on Procedures above.

D. Manufacturer's Instructions

1. When required in individual Specification Section, submit manufacturer's printed instructions for delivery, storage, assembly, installation, start-up, adjusting and finishing in quantities specified for product data.
2. Identify conflicts between manufacturer's instructions and Contract Documents.

E. Manufacturer's Certifications

1. When specified in individual specification Sections, submit manufacturer's certificate to Engineer for review.
2. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
3. Certificates may be recent or previous test results on material or Product, but must be acceptable to Engineer.

F. Samples

1. Submit samples to illustrate functional and aesthetic characteristics of the Product, with integral parts and attachment devices. Coordinate sample submittals for interfacing Work.
2. Submit samples of finishes from the full range of manufacturers' standard colors and textures for Engineer's selection.

3. Include identification on each sample, with full Project information.
4. Reviewed samples which may be used in the Work are indicated in individual specification sections.

G. Submission Requirements

1. Hard copy submittals:
  - a. Shop Drawings: Submit the number of opaque reproductions which the Contractor requires, plus four (4) copies which will be retained by the Engineer.
  - b. Product Data: Submit the number of copies which the Contractor requires, plus four (4) which will be retained by the Engineer.
  - c. Samples: Submit the number of samples which the Contractor requires (minimum three), plus four (4) which will be retained by the Engineer.
2. Electronic Submittals:
  - a. Alternatively an electronic submittal may be made for Shop Drawings and Product Data. Submit one (1) PDF to the Engineer via email or other electronic transmission method approved by the Engineer. PDF format shall allow inserting comments into the document.
  - b. A PDF transmittal sheet shall be included with the submittal.
  - c. Submittals shall include all information required in paragraph 1.04.G.3. of this Section.
3. Submittals shall contain:
  - a. The date of submission.
  - b. The Project title and number.
  - c. Contract identification.
  - d. The names of:
    - i. Contractor
    - ii. Subcontractor
    - iii. Supplier
    - iv. Manufacturer
  - e. Identification of the product, with the specification section number.
  - f. Field dimensions, clearly identified as such.
  - g. Relation to adjacent or critical features of the Work or materials.
  - h. Applicable standards, such as ASTM or Federal Specification numbers.
  - i. Identification of deviations from Contract Documents.
  - j. A 4" x 4" blank space for Engineer stamps.
  - k. Contractor's stamp, initialed or signed, certifying to review of submittals, verification of products, field measurements and field construction criteria, and coordination of the information within the submittal with requirements of the Work and of Contract Documents.

4. Resubmissions shall contain:
  - a. Date of previous submission.
  - b. Revised drawings and data responding to comments of initial review.
  - c. Identification of other revisions made on shop drawings and reason for revisions.
5. Failure of Contractor to comply with these requirements shall be cause for rejection of any non-complying submittal.

#### 1.05 PHOTO DOCUMENTATION

##### A. Preconstruction Video Route/Site Survey

1. A video route/site survey is required for all construction areas. Condition of adjacent driveway and pavement edges are particularly important.
2. All video recording must be made in a digital, continuous running audio-video format. Audio-video recordings to be provided in electronic format suitable for play-back on computer drives.
3. All video recording shall be done during times of good visibility. No taping shall be done during periods of visible precipitation.
4. All Videos shall be properly identified as to location, time, and date. Locations must be identified with respect to street name and station numbering.
5. Two copies of the Video shall be provided to the Engineer/Owner prior to construction.

#### **PART 2 - PRODUCTS**

Not Used

#### **PART 3 - EXECUTION**

Not Used

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**SECTION 01 40 00**  
**QUALITY REQUIREMENTS**

**PART 1 - GENERAL**

1.01 SECTION INCLUDES

- A. Regulatory Requirements
- B. References
- C. Quality Assurance
- D. Quality Control

1.02 RELATED SECTIONS

- A. Section 01 30 00 – Administrative Requirements: Submission of Manufacturers' Instructions and Certificates.
- B. Section 01 45 29 – Testing Laboratory Services.
- C. Section 01 60 00 – Product Requirements: Requirements for material and product quality.

1.03 REGULATORY REQUIREMENTS

- A. The permits listed in the Supplementary Conditions have been or will be obtained by the Owner for the construction of the Work.
- B. Contractor shall comply with all provisions and restrictions in these permits.

1.04 REFERENCES

- A. Conform to reference standard by date of issue current on date of Contract Documents.
- B. Obtain copies of standards when required by Contract Documents.
- C. Should specified reference standards conflict with Contract Documents, request clarification for Engineer before proceeding.
- C. The contractual relationship of the parties to the Contract shall not be altered from the Contract Documents by mention or inference otherwise in any reference document.

## 1.05 QUALITY ASSURANCE

- A. Manufacturers' Field Services and Reports
  - 1. When specified in individual specification Sections, require material or Product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust, and balance of equipment as applicable, and to initiate instructions when necessary.
  - 2. Individuals to report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
  - 3. Submit report in duplicate within 30 days of observation to Engineer for review.
- B. Field Samples
  - 1. Install field samples at the site as required by individual specifications Sections for review.
  - 2. Acceptable samples represent a quality level for the Work.
  - 3. Where field sample is specified in individual Sections to be removed, clear area after field sample has been accepted by Engineer.
- C. Mock-Up
  - 1. Assemble and erect specified items, with specified attachment and anchorage devices, flashings, seals, and finishes.
  - 2. Where mock-up is specified in individual Sections to be removed, clear area after mock-up has been accepted by Engineer.

## 1.06 QUALITY CONTROL

- A. Field Quality Control Procedures
  - 1. Monitor quality control over suppliers, manufacturers, Products, services, site conditions, and workmanship, to produce Work of specified quality.
  - 2. Comply fully with manufacturers' instructions, including each step in sequence.
  - 3. Should manufacturers' instructions conflict with Contract Documents, request written clarification from Engineer before proceeding.
  - 4. Comply with specified standards as a minimum quality for the Work except when more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
  - 5. Perform Work by persons qualified to produce workmanship of specified quality.

6. Secure Products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion or disfigurement.
- B. Testing and Inspection Services
1. Contractor shall appoint, employ, and pay for services of an independent testing laboratory to perform specified inspection and testing.
  2. Contractor shall pay for services of the Testing Lab.
  3. Employment of testing laboratory shall in no way relieve Contractor of obligation to perform Work in accordance with requirements of Contract Documents.
  4. Retesting required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by Engineer. Payment for retesting will be charged to Contractor by deducting inspection or testing charges from the Contract Sum/Price.

## **PART 2 - PRODUCTS**

Not Used

## **PART 3 - EXECUTION**

Not Used

END OF SECTION

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**SECTION 01 45 29**  
**TESTING LABORATORY SERVICES**

**PART 1 - GENERAL**

1.01 SECTION INCLUDES

- A. Selection and payment
- B. Contractor submittals
- C. Laboratory responsibilities
- D. Laboratory reports
- E. Limits on testing laboratory authority
- F. Contractor responsibilities
- G. Schedule of inspections and tests

1.02 RELATED SECTIONS

- A. Section 01 20 00 – Price and Payment Procedures: Testing allowance, if specified.
- B. Section 01 30 00 - Submittals: Manufacturer's certificates.
- C. Section 01 40 00 – Quality Requirements: Testing and Inspection Services.
- D. Section 01 70 00 - Contract Closeout: Project Record Documents.
- E. Individual Specification Sections: Inspections and tests required, and standards for testing.

1.03 REFERENCES

- A. Florida Department of Transportation, Standard Specifications for Road and Bridge Construction (Latest Edition).
- B. Florida Department of Transportation, Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System (Latest Edition).
- C. Manual of Uniform Traffic Control Devices (MUTCD) (Latest Edition).

- D. ANSI/ASTM D3740 - Practice for Evaluation for Agencies Engaged in Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction.
- E. ANSI/ASTM E329 - Recommended Practice for Inspection and Testing Agencies for Concrete, Steel, and Bituminous Materials as Used in Construction.

#### 1.04 SELECTION AND PAYMENT

- A. Refer to Section 01 40 00 – Quality Requirements for testing laboratory selection and payment.

#### 1.05 QUALITY ASSURANCE

- A. Comply with requirements of the FDOT and City of Wauchula.
- B. Comply with requirements of ANSI/ASTM E329 and ANSI/ASTM D3740.
- C. Laboratory: Authorized to operate in the State of Florida.
- D. Laboratory Staff: Maintain a full time Specialist on staff to review services.
- E. Testing Equipment: Calibrated at reasonable intervals with devices of an accuracy traceable to either National Bureau of Standards (NBS) Standards or accepted values of natural physical constants.

#### 1.06 CONTRACTOR SUBMITTALS

- A. Prior to start of Work, submit testing laboratory name, address, and telephone number, and names of full time Specialist and responsible officer.
- B. Submit copy of report of laboratory facilities inspection made by Materials Reference Laboratory of National Bureau of Standards (NBS) during most recent tour of inspection, with memorandum of remedies of any deficiencies reported by the inspection.

#### 1.07 LABORATORY RESPONSIBILITIES

- A. Test samples of mixes submitted by Contractor.
- B. Provide qualified personnel at site. Cooperate with Engineer and Contractor in performance of services.

- C. Perform specified inspection, sampling, and testing of Products in accordance with specified standards.
- D. Ascertain compliance of materials and mixes with requirements of Contract Documents.
- E. Promptly notify Engineer and Contractor with copies to Owner of observed irregularities or non-conformance of Work or Products.
- F. Perform additional inspections and tests required by Engineer.
- G. Attend pre-construction conferences and progress meetings.

#### 1.08 LABORATORY REPORTS

- A. After each inspection and test, promptly submit two copies of laboratory report to Engineer, to Owner, and to Contractor.
- B. Include:
  - 1. Date issued
  - 2. Project title and number
  - 3. Name of inspector
  - 4. Date and time of sampling or inspection
  - 5. Identification of product and Specifications Section
  - 6. Location in the Project
  - 7. Type of inspection or test
  - 8. Date of test
  - 9. Results of tests
  - 10. Conformance with Contract Documents.
- C. When requested by Engineer, provide interpretation of test results.

#### 1.09 LIMITS ON TESTING LABORATORY AUTHORITY

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

## 1.10 CONTRACTOR RESPONSIBILITIES

- A. Deliver to laboratory at designated location, adequate samples of materials proposed to be used which require testing, along with proposed mix designs.
- B. Cooperate with laboratory personnel and provide access to the Work.
- C. Provide incidental labor and facilities to provide access to Work to be tested, to obtain and handle samples at the site or at source of products to be tested, to facilitate tests and inspections, storage and curing of test samples.
- D. Notify Engineer and laboratory 24 hours prior to expected time for operations requiring inspection and testing services.
- E. Provide equipment for testing such as level to check cross-slope and rolling straight edge for deviation.
- F. Hire testing laboratory and pay all costs of testing laboratory services.

## **PART 2 - PRODUCTS**

Not Used

## **PART 3 - EXECUTION**

Not Used

END OF SECTION

**SECTION 01 70 00**  
**EXECUTION AND CLOSEOUT REQUIREMENTS**

**PART 1 – GENERAL**

1.01 RELATED SECTIONS

- A. Section 01 30 00 - Administrative Requirements: Submittals procedures.
- B. Section 01 40 00 - Quality Requirements: Testing and inspection procedures.

1.02 SUBMITTALS

- A. See Section 01 30 00 - Administrative Requirements, for submittal procedures.
- B. Survey work: Submit name, address, and telephone number of Surveyor before starting survey work.
  - 1. On request, submit documentation verifying accuracy of survey work.
  - 2. Submit a copy of site drawing signed by the Land Surveyor, that the elevations and locations of the work are in conformance with Contract Documents.
- C. Cutting and Patching: Submit written request in advance of cutting or alteration which affects:
  - 1. Structural integrity of any element of Project.
  - 2. Integrity of weather exposed or moisture resistant element.
  - 3. Efficiency, maintenance, or safety of any operational element.
  - 4. Visual qualities of sight exposed elements.
  - 5. Work of Owner or separate Contractor.

1.03 QUALIFICATIONS

- A. For survey work, employ a land surveyor registered in the State in which the Project is located and acceptable to Engineer. Submit evidence of Surveyor's Errors and Omissions insurance coverage in the form of an Insurance Certificate.

1.04 PROJECT CONDITIONS

- A. Protect site from puddling or running water. Provide water barriers as required to protect site from soil erosion.

## 1.05 COORDINATION

- A. Coordinate scheduling, submittals, and work of the various sections of the Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- B. Notify affected utility companies and comply with their requirements.
- C. Coordinate completion and clean-up of work of separate sections.
- D. After Owner occupancy of premises, coordinate access to site for correction of defective work and work not in accordance with Contract Documents, to minimize disruption of Owner's activities.

## **PART 2 - PRODUCTS**

### 2.01 PATCHING MATERIALS

- A. New Materials: Must be on FDOT Qualified Products List.
- B. Product Substitution: For any proposed change in materials, submit request for substitution described in Section 01 60 00. Alternate materials cannot be used until accepted in writing.

## **PART 3 - EXECUTION**

### 3.01 EXAMINATION

- A. Verify that existing site conditions and substrate surfaces are acceptable for subsequent work. Start of work means acceptance of existing conditions.
- B. Verify that existing substrate is capable of structural support or attachment of new work being applied or attached.
- C. Examine and verify specific conditions described in individual specification sections.
- D. Take field measurements before confirming product orders or beginning fabrication, to minimize waste due to over-ordering or misfabrication.
- E. Verify that utility services are available, of the correct characteristics, and in the correct locations.

- F. Prior to Cutting: Examine existing conditions prior to commencing work, including elements subject to damage or movement during cutting and patching. After uncovering existing work, assess conditions affecting performance of work. Beginning of cutting or patching means acceptance of existing conditions.

### 3.02 PREPARATION

- A. Clean surfaces prior to applying next material or substance.

### 3.03 LAYING OUT THE WORK

- A. Verify locations of survey control points prior to starting work.
- B. Promptly notify Engineer of any discrepancies discovered.
- C. Contractor shall locate and protect survey control and reference points.
- D. Control datum for survey is that indicated on Drawings.
- E. Protect survey control points prior to starting site work; preserve permanent reference points during construction.
- F. Promptly report to Engineer the loss or destruction of any reference point or relocation required because of changes in grades or other reasons.
- G. Replace dislocated survey control points based on original survey control. Make no changes without prior written notice to Engineer.
- H. Utilize recognized engineering survey practices.
- I. Establish elevations, lines and levels. Locate and lay out by instrumentation and similar appropriate means.
- J. Periodically verify layouts by same means.
- K. Maintain a complete and accurate log of control and survey work as it progresses.

### 3.04 GENERAL INSTALLATION REQUIREMENTS

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.

- B. Make vertical elements plumb and horizontal elements level, unless otherwise indicated.

### 3.05 CUTTING AND PATCHING

- A. Execute cutting and patching including excavation and fill to complete the work, to uncover work in order to install improperly sequenced work, to remove and replace defective or non-conforming work, to remove samples of installed work for testing when requested, to provide openings in the work for penetration of mechanical and electrical work, to execute patching to complement adjacent work, and to fit products together to integrate with other work.
- B. Execute work by methods to avoid damage to other work, and which will provide appropriate surfaces to receive patching and finishing.
- C. Employ original installer to perform cutting for weather exposed and moisture resistant elements, and sight exposed surfaces.
- D. Cut rigid materials using masonry saw or core drill. Pneumatic tools not allowed without prior approval.
- E. Restore work with new products in accordance with requirements of Contract Documents.

### 3.06 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
- B. Collect and remove waste materials, debris, and trash/rubbish from site periodically and dispose off-site; do not burn or bury.

### 3.07 PROTECTION OF INSTALLED WORK

- A. Protect installed work from damage by construction operations.
- B. Provide special protection where specified in individual specification sections.
- C. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.

- D. Remove protective coverings when no longer needed; reuse or recycle plastic coverings if possible.

### 3.08 FINAL CLEANING

- A. Use cleaning materials that are non-hazardous.
- B. Clean site, sweep paved areas, rake clean landscaped surfaces.
- C. Remove waste, surplus materials, trash/rubbish, and construction facilities from the site; dispose of in legal manner; do not burn or bury.

### 3.09 CLOSEOUT PROCEDURES

- A. Make submittals that are required by governing or other authorities.
- B. Notify Engineer when work is considered ready for Substantial Completion.
- C. Submit written certification that Contract Documents have been reviewed, work has been inspected, and that work is complete in accordance with Contract Documents and ready for Engineer's review.
- D. Correct items of work listed in executed Certificates of Substantial Completion and comply with requirements for access to Owner-occupied areas.
- E. Notify Engineer when work is considered finally complete.
- F. Record Drawings and Shop Drawings:
  - 1. Legibly mark each item to record actual construction including:
    - a. Measured horizontal and vertical locations of underground utilities, detail on cross-drain culverts and appurtenances, referenced to the Stationing System for the roadway improvements. Elevation data shall be provided at 200' intervals along the roadway and at all special improvements.
    - b. Field changes of dimension and detail.
    - c. Details not on original Contract drawings.
  - 2. Record drawings shall be signed and sealed by a registered professional land surveyor. Three copies of pdf files of the survey shall be provided to the Owner.

- G. Complete items of work determined by Engineer's final inspection.

END OF SECTION

## **SECTION 01 78 00 CLOSEOUT SUBMITTALS**

### **PART 1 - GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Project Record Documents.
- B. Operation and Maintenance Data.
- C. Warranties and bonds.

#### **1.02 RELATED REQUIREMENTS**

- A. Section 00 72 00 - General Conditions: Performance bond and labor and material payment bonds, warranty, and correction of work.
- B. Section 01 30 00 - Administrative Requirements: Submittals procedures, shop drawings, product data, and samples.
- C. Section 01 70 00 - Execution and Closeout Requirements: Contract closeout procedures.
- D. Individual Product Sections: Warranties required for specific products or Work.

#### **1.03 SUBMITTALS**

- A. Project Record Documents: Submit documents to Engineer with claim for final Application for Payment.
- B. Warranties and Bonds:
  - 1. Warranties shall be submitted with final application for payment.

### **PART 2 - PRODUCTS**

Not Used

### **PART 3 - EXECUTION**

#### **3.01 PROJECT RECORD DOCUMENTS**

- A. Maintain on site one set of the following record documents; record actual revisions to the Work:

1. Drawings.
  2. Specifications.
  3. Addenda.
  4. Change Orders and other modifications to the Contract.
  5. Reviewed shop drawings, product data, and samples.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress.
- E. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
1. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings:
1. Legibly mark each item to record actual construction including:
    - a. Elevation data shall be provided at 200' intervals along the repaired roadway.
    - c. Field changes of dimension and detail.
    - e. Details not on original Contract drawings.
  2. Record drawings shall be signed and sealed by a registered surveyor in accordance with Section 01 70 00. Three copies of a pdf file of the survey shall be provided to the Owner.

### 3.02 WARRANTIES AND BONDS

- A. Obtain warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within 10 days after completion of the applicable item of work. Except for items put into use with Owner's permission, leave date of beginning of time of warranty until the Date of Substantial completion is determined.
- B. Verify that documents are in proper form, contain full information, and are notarized.
- C. Co-execute submittals when required.
- D. Retain warranties and bonds until time specified for submittal.

### **END OF SECTION**

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## **DIVISION 02 THROUGH 49 – NOT USED**

**Technical Specifications shall conform to Florida Department of Transportation Standard Specifications for Road and Bridge Construction (SSR&BC) (Latest Edition) and State of Florida Department of Transportation STANDARD PLANS FOR ROADWAY CONSTRUCTION (Latest Edition)**

**ATTACHMENT A**

**TECHNICAL SPECIAL PROVISIONS**

**TECHNICAL SPECIAL PROVISION**  
**FOR**  
**THE CITY OF WAUCHULA**  
**DOWNING CIRCLE MILLING & RESURFACING**

**Prepared By:**  
W.R. Cauthan, P.E. #27563  
Date: November 2025  
Pages: 1 – 8

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**DOWNING CIRCLE MILLING AND**  
**RESURFACING**

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## **TSP-1 PREVENTION, CONTROL, AND ABATEMENT OF EROSION AND WATER POLLUTION**

**TSP-1.1 DESCRIPTION:** The Work of this section includes installation of temporary erosion control features to the extent necessary to assure economical, effective and continuous control of erosion and water pollution throughout the life of the contract

**TSP-1.2 WORK OF THE CONTRACTOR:**  
A generic NPDES construction permit shall be obtained for this project by the CONTRACTOR. The CONTRACTOR shall prepare and submit an Erosion Control Plan in compliance with the generic Storm Water Pollution Prevention Plan presented at the pre-construction conference and before beginning any work. It shall be the responsibility of CONTRACTOR to perform all necessary inspections, file required reports and comply with the permitted Storm Water Pollution Prevention Plan (SWPPP). All Work of this CONTRACT shall also comply with Section 104 of the FDOT Standard Specifications for Road and Bridge Construction.

CONTRACTOR shall ensure that his Erosion Control Plan includes procedures to control off-site tracking of soil by vehicles and construction equipment and a procedure for cleanup and reporting of non-storm water discharges, such as contaminated groundwater or accidental spills. Do not begin any soil until this plan is approved.

CONTRACTOR shall be required to prepare and submit the appropriate NPDES Notice of Termination of Generic Permit Coverage. Failure to sign any required documents or certification statements will be considered a default of CONTRACT.

The referenced standard shall be the Standard Specifications for Road and Bridge Construction, (Latest Edition), issued by Florida Department of Transportation, specified hereinafter as DOT Spec. All references to "Department" in referenced standard shall be construed to mean "OWNER" for this Work.

**TSP-1.3 MATERIALS:**  
The materials used for the construction of temporary silt fence, staked turbidity barriers and floating turbidity barrier not to be incorporated into the completed project may be new or used subject to the approval of the approval of the

Owner. Temporary erosion and water pollution control features shall consist of, but not be limited to, temporary sodding, baled hay or straw and staked silt fence.

1. Temporary Sod: This Work shall consist of furnishing and placing sod in order to temporarily control erosion. If the sod is determined to be of a temporary nature, at the discretion of ENGINEER the requirements for fertilizer and lime may be eliminated. The sod shall be kept moist in order to insure growth. Any watering required will be paid for as a part of the Lump Sum erosion control item
2. Baled Hay or Straw: This Work shall consist of construction of baled hay or straw dams to protect against downstream accumulation of silt. The baled hay or straw dams shall be constructed in accordance with the FDOT Roadway and Traffic Design Standards and with the CONTRACTOR's approved erosion control plan.
3. Staked Silt Fence: This Work shall consist of furnishing, installing, maintaining and removing temporary silt fences, in accordance with the manufacturer's directions and the CONTRACTOR's approved erosion control plan.

CONTRACTOR shall, at its expense, provide routing maintenance of permanent and temporary erosion control features until the project is completed and accepted. If such erosion control features must be reconstructed due to CONTRACTOR's negligence or carelessness, such replacement shall be at the CONTRACTOR's expense.

Any temporary erosion control features existing at the time of construction of the permanent erosion control features in an area of the project shall be removed or incorporated into the soil in such a manner that no detrimental effect will result. ENGINEER may direct that temporary features be left in place.

Temporary erosion and pollution control work shall be paid for on a Lump Sum basis.

## **TSP-2      MAINTENANCE OF TRAFFIC**

### **TSP-2.1      GENERAL**

#### **TSP-2..1.1   SECTION INCLUDES**

- A.      Reference Standards
- B.      Maintenance of Traffic Plan
- C.      Maintaining Traffic
- D.      Traffic Signs and Devices
- E.      Road and Lane Closing

**TSP-2.2   DESCRIPTION:** Maintenance of Traffic consists of maintaining public highway traffic within limits of project for the duration of the construction period, including any temporary suspension of work. It shall also include construction and maintenance of any necessary detour facilities, furnishing, installing and maintaining of traffic control and safety devices during construction, control of dust, and any other special requirements for safe and expeditious movement of traffic.

The term "Maintenance of Traffic" as used herein, shall include all such facilities, devices, traffic control personnel, and operations as are required for the safety and convenience of the public as well as for minimizing public nuisance. The applicable standard shall be the Standard Specifications for Road and Bridge Construction, latest edition issued by Florida Department of Transportation (latest edition) and the Manual on Uniform Traffic Control Devices.

#### **TSP-2.2.2   REFERENCE STANDARDS**

- A.      Manual on Uniform Traffic Control Devices – USDOT FHWA
- B.      Roadway and Traffic Design Standards - FDOT
- C.      Policy on Geometric Design of Highways and Streets (Green Book) - AASHTO

- D. Plans Preparation Manual (PPM) – FDOT
- E. Standard Specifications for Road and Bridge Construction (SSFR & BC) – FDOT
- F. Roadside Design Guide - AASHTO

#### **TSP-2..2.3 MAINTENANCE OF TRAFFIC PLAN**

- A. Contractor shall submit for review and approval by FDOT or local agencies, a Maintenance of Traffic (MOT) plan for all operations conducted within the right of way as required by permit or within 20 feet of the edge of the travel way if operations are outside the right of way. MOT shall conform to local and FDOT requirements.
- B. Contractor shall designate a Worksite Traffic Supervisor responsible for implementation and ongoing operation of the MOT Plan. The name and 24-hour phone numbers for the Worksite Traffic Supervisor shall be provided to the Owner and Engineer.

#### **TSP-2.2.4 MAINTENANCE OF TRAFFIC REQUIREMENTS:**

- A. Maintenance of traffic is long-term traffic control and operation within the work zone. The limits of the work area and maintenance to traffic may vary from the typical based on the required work zone size and construction sequencing. However, the minimum lane widths, work zone buffers, signing, tapers, and pavement markings are required as indicated in the Florida Department of Transportation Roadway and Traffic Design Standards.
- B. CONTRACTOR shall maintain two-way traffic operation during non-construction hours (when the work site is not manned) or when traffic is not under the control of a flagman unless a plan has been approved to completely close the roadway.
- C. Travel lanes within the project work zone must be maintained at a minimum of ten (10) feet in width.
- D. Daytime and short-term traffic control shall be determined

based on the specific work operation to be performed and shall be maintained in accordance with the Florida Department of Transportation roadway and traffic design standards.

- E. During construction hours (when the work site is manned) a minimum of one traffic lane shall remain in operation. CONTRACTOR shall maintain one-way traffic control on a minimum of one (1) ten (10) foot wide lane.
- F. All signs shall be post mounted for long-term maintenance of traffic.
- G. All signs which denote one-way traffic and flagman operations shall be removed or covered at all times when the project work zone is open to two-way traffic.
- H. At intersections within the work zone, the existing means of intersection traffic control must be maintained, and modified as necessary to be maintained, during the course of construction.
- I. A minimum of a two-foot buffer must be provided at all times between the work area and the traveled way. A four-foot minimum is to be provided to provide for the barricade devices and the required buffer.

**ATTACHMENT B**

**GEOTECHNICAL REPORT**



Cored By: Madrid Engineering

Coring Completion Date: 10/17/25

Typical Section: Rural Roadway

Client Project Number:	N/A	Name:	Downing Circle Dr				Lanes:	2	
Madrid Project No.:	15887	From:					Shoulder Type and Condition		
County:	Hardee	To:					Inside:	N	
Roadway ID:	N/A	Beg MP:		End MP:		Length:	0.000	Outside:	N
Overall Pavement Condition (from field review):		Poor	Median Curbed (Y/N):	N	Paved, Lawn, or Other:	N/A	Curb & Gutter (Y/N):	N	

All Cores																													
CORE NO.	MILE POST <sup>2</sup>	LANE TYPE	LANE	WP (Y/N)	PAVEMENT LAYER (IN.)										TOTAL ASPHALT THICKNESS (IN.)	BASE				STABILIZED SUBGRADE <sup>3</sup>	CRACK				PAVEMENT CONDITION	RUT DEPTH - LWP (IN.)	RUT DEPTH - RWP (IN.)	CROSS SLOPE (%) <sup>4</sup>	COMMENTS
					S2											SHEL					DEPTH (IN.)	TYPE	CLASS	EXTENT					
1		ML	R1	Y	0.8									0.8	6.0				Y	0.8	A	III	S						
2		ML	L1	N	0.8									0.8	5.0				Y										
AVERAGE					0.78									0.78	5.50					0.80									
MAX					0.80									0.80	6.00					0.80									
MIN					0.75									0.75	5.00					0.80									
LAYER COEF.					0.15									0.18				0.08											

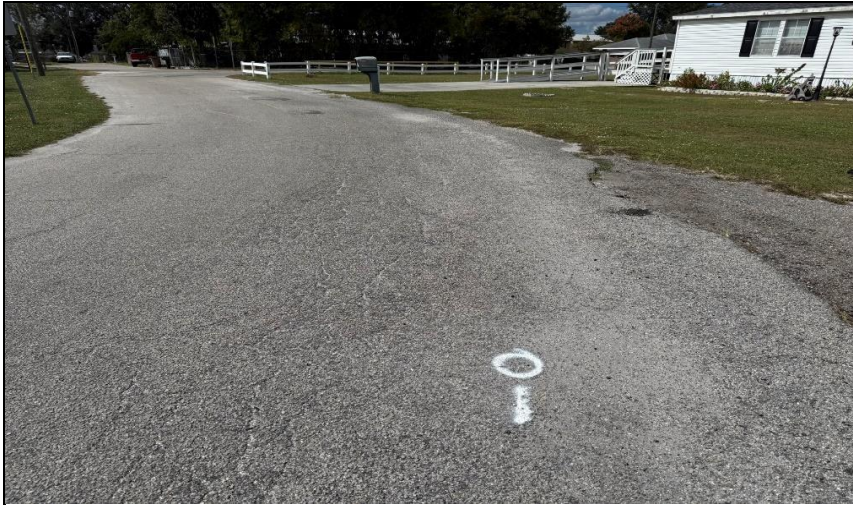
Notes:

1. The data presented on this table is specific only at the locations cored at the time of the investigation. Should questions arise regarding the pavement composition, it is incumbent upon those raising the question to perform additional exploration as necessary.
2. Mile posts are approximate based on field recorded measurements using a Distance Measuring Instrument (DMI) or a GPS unit.
3. Stabilization thickness was checked on 10% of the coring locations. For pavement design, assume 12 inches of thickness for stabilization.
4. The cross slope is approximate and measured in the center of the lane.
5. A blank cell indicates measurement was not recorded.
6. A value of "UNK" indicates material was encountered but the total thickness was not determined.

<u>Lane Designations - Decreasing MP</u>	<u>Lane Designations - Increasing MP</u>	<u>Lane Type</u>		<u>Crack Type</u>	<u>Crack Rating</u>	<u>Extent</u>	<u>Pavement Condition</u>
OL/IL - Outside/Inside Shoulder	OR/IR - Outside/Inside Shoulder	ML - Mainline	S - Shoulder	A - Alligator	Class IB - Hairline cracks that are ≤ 1/8 inch wide	L - Light	G - Good
L1 - 1st Lane Left of Centerline	R1 - 1st Lane Right of Centerline	TL - Turn Lane	SS - Side Street	B - Block	Class II - Cracks > than 1/8 inch and ≤ 1/4 inch	M - Moderate	F - Fair
LL/LR - Left/Right Turn Lane	RL/RR - Left/Right Turn Lane	CO - Crossover	BR - Bridge Approach/Departure	C - Combination	Class III - Cracks > 1/4 inch	S - Severe	P - Poor

Pavement Layer Codes	Description	Good	Fair	Poor	Base Layer Codes	Description	Good	Fair	Poor	All Cores	All Cores	Overall Condition
ARMI	Asphalt Rubber Membrane Interlayer	0.00	0.00	0.00	ABC-1	ABC similar to SAHM and SBRM	0.17	0.14	0.10	Mainline	ML	Good
BIND	Asphalt Binder Course	0.25	0.20	0.15	ABC-2	ABC similar to SAHM and SBRM	0.20	0.16	0.12	Shoulders	S	Fair
BRCK	Brick Pavers	UNKW	UNKW	UNKW	ABC-3	ABC similar to S-II and S-I	0.25	0.20	0.15	Turn Lanes	TL	Poor
CONC	Portland Cement Concrete	UNKW	UNKW	UNKW	B-12.5	Type B-12.5	0.25	0.20	0.15	Side Street	SS	5
CRL	Crack Relief Layer	0.00	0.00	0.00	BRCK	Brick Pavers (Clay or Asphalt)	UNKW	UNKW	UNKW	Bridge Approach/Departure	BR	
FAB	Pavement Overlay Fabric	0.00	0.00	0.00	CONC	Concrete	UNKW	UNKW	UNKW	Crossovers	CO	
FC	Friction Course	UNKW	UNKW	UNKW	CTSG	Cement Treated (300 psi)	0.12	0.12	0.12	Gore Area	GO	
FC1	Friction Course 1	0.17	0.15	0.12	ECON	Econocrete Base	0.12	0.12	0.12			
FC2	Friction Course 2	0.00	0.00	0.00	FDR	Full Depth Reclamation	0.20	0.20	0.20			
FC3	Friction Course 3	0.20	0.17	0.15	GRAG	Graded Aggregate (LBR 100)	0.15	0.15	0.15			
FC4	Friction Course 4	0.17	0.15	0.12	GRAV	Gravel & Stone	UNKW	UNKW	UNKW			
FC5	Friction Course 5	0.00	0.00	0.00	LR	Limerock (LBR 100)	0.18	0.18	0.18			
FC6	Friction Course 6	0.34	0.25	0.15	URST	Limerock Stab. (LBR 70)	0.12	0.12	0.12			
FC9.5	Friction Course 9.5 mm	0.34	0.25	0.15	UTSG	Lime Treated	0.08	0.08	0.08			
FC12.5	Friction Course 12.5 mm	0.34	0.25	0.15	MARL	Marl	UNKW	UNKW	UNKW			
S	Type S Asphaltic Concrete	0.34	0.25	0.15	NONE	None	0.00	0.00	0.00			
SAHM	Sand Asphalt Hot Mix	0.13	0.11	0.08	RAP	Reclaimed Asphalt Pavement Base	UNKW	UNKW	UNKW			
SP1C	9.5mm Coarse Graded	0.34	0.25	0.15	RCA	Recycled Concrete Aggregate (LBR 150)	0.18	0.18	0.18			
SP1F	9.5mm Fine Graded	0.34	0.25	0.15	SAHM	Sand Asphalt Hot Mix	0.13	0.11	0.08			
SP2C	12.5mm Coarse Graded	0.34	0.25	0.15	SCEM 300	Soil Cement (300 psi)	0.15	0.15	0.15			
SP2F	12.5mm Fine Graded	0.34	0.25	0.15	SCEM 500	Soil Cement (500 psi)	0.20	0.20	0.20			
SP3C	19.0mm Coarse Graded	0.34	0.25	0.15	SLCY	Sand Clay (LBR 75)	0.12	0.12	0.12			
SP3F	19.0mm Fine Graded	0.34	0.25	0.15	SHBR	Bank Run Shell (LBR 100)	0.18	0.18	0.18			
SP9.5	Structural Course 9.5mm	0.34	0.25	0.15	SHCC	Cemented Coquina (LBR 100)	0.18	0.18	0.18			
SP12.5	Structural Course 12.5mm	0.34	0.25	0.15	SHEL	Shell Rock (LBR 100)	0.18	0.18	0.18			
ST	Surface Treatment	0.00	0.00	0.00	SHST	Shell Stab. (LBR 70)	0.10	0.10	0.10			
S1	Type S-I Asphaltic Concrete	0.34	0.25	0.15	ST30	Type B Stab. (LBR 30)	0.06	0.06	0.06			
S2	Type S-II Asphaltic Concrete	0.34	0.25	0.15	ST40	Type B Stab. (LBR 40)	0.08	0.08	0.08			
S3	Type S-III Asphaltic Concrete	0.34	0.25	0.15	STC	Type C Stab.	0.06	0.06	0.06			
T1	Type I Asphaltic Concrete	0.30	0.23	0.15								
T2	Type II Asphaltic Concrete	0.17	0.15	0.12								
T3	Type III Asphaltic Concrete	0.25	0.20	0.15								
UNIM	Unimproved Surface	UNKW	UNKW	UNKW								
UNKW	Unknown	UNKW	UNKW	UNKW								
WC	Wearing Course	UNKW	UNKW	UNKW								
WC1	Wearing Course 1	UNKW	UNKW	UNKW								
WC2	Wearing Course 2	UNKW	UNKW	UNKW								
WC3	Wearing Course 3	UNKW	UNKW	UNKW								
WC4	Wearing Course 4	UNKW	UNKW	UNKW								
WC5	Wearing Course 5	UNKW	UNKW	UNKW								
WC6	Wearing Course 6	UNKW	UNKW	UNKW								
WC7	Wearing Course 7	UNKW	UNKW	UNKW								
WC8	Wearing Course 8	UNKW	UNKW	UNKW								

PAVEMENT CORE PHOTO PAGES		Madrid Project Number: 15887	PROJECT DESCRIPTION: Downing Circle Rd Pavement Evaluation	
CORED BY: Madrid Engineering	DATE: 10/17/2025	BEGIN MP: N/A	END MP: N/A	COUNTY / ROADWAY ID: Hardee County



Core 1 (Field)



Core 1 (Lab)



Core 2 (Field)



Core 2 (Lab)