



DENNIS ENGINEERING COMPANY

**CITY OF SOCORRO**

**CONTRACT DOCUMENTS  
AND  
SPECIFICATIONS**

**for the construction of the**

**MANZANARES AVENUE STREET AND  
DRAINAGE IMPROVEMENTS**

**LP10039**

**ITB No. 01162024**

**DECEMBER, 2023**

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## ENGINEER'S CERTIFICATE

The technical material and data contained in these Specifications were prepared under the supervision and direction of the undersigned whose seal as a Professional Engineer, licensed to practice as such in the State of New Mexico is affixed below.

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Tappan J. Mahoney, PE, 15342  
Licensed Engineer  
Date: December 8, 2023



Funding:  
LP10039

## Contract Documents And Specifications

### City of Socorro Manzanares Avenue Street and Drainage Improvements

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#### Governing Body

Ravi Bhasker	Mayor
Gordy Hicks	Councilor
Peter D. Romero	Councilor
Mary Ann Chavez-Lopez	Councilor
Anton Salome	Councilor
Michael Olguin	Councilor
Deborah Dean	Councilor
Damian Campo	Councilor
Nick Fleming	Councilor

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# **SECTION 00111 ADVERTISEMENT FOR BIDS**

## **CITY OF SOCORRO SOCORRO, NM MANZANARES AVENUE STREET AND DRAINAGE IMPROVEMENTS**

### **ADVERTISEMENT FOR BIDS**

Sealed Bids for the construction of the Manzanares Avenue Street and Drainage Improvements, ITB No. 01162024, will be received by City of Socorro at the Socorro City Hall, 111 School of Mines Road, Socorro, NM 87801, until 11:00 a.m. local time on January 16, 2024, at which time the Bids received will be publicly opened and read.

Reconstruction of Manzanares Avenue with new sidewalks, drive pads, curb and gutter, asphalt surfacing and other minor items to provide a complete project.

Bids will be received for a single prime Contract. Bids shall be on a lump sum and unit price basis, with additive alternate bid items as indicated in the Bid Form. The Owner reserves the right to adjust quantities included in the Bid Schedule as necessary to provide a complete project with the available funding.

The Issuing Office for the Bidding Documents is: **DENNIS ENGINEERING COMPANY**, 6020 Indian School Road, NE, Albuquerque, NM 87110, (505) 281-2880. Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of 8:00 a.m. and 5:00 p.m.

The Bidding Documents may also be examined at the following locations:

City of Socorro  
111 School of Mines Road  
Socorro, NM 87801  
575-835-0240

Construction Reporter  
4901 Mcleod Rd NE, STE 200A  
Albuquerque, NM 87109  
(505) 243-9793

The PlanIt Room  
1155 Westmoreland, Suite 109  
El Paso, TX 79925  
(915) 781-2900

The Bidding Documents for this project may be obtained at the following designated website: <https://www.decnm.com/DEC-FileShare>. Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda and other information relevant to submitting a Bid for the Project.

All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

If paper copies of the Bidding Documents are needed, call 505-281-2880 to request at least 24 hours in advance. Requested paper copies may be obtained at the office of **DENNIS ENGINEERING COMPANY**, 6020 Indian School NE, Albuquerque, NM 87110, upon payment of \$400.00 for each set of documents. Checks for Bidding Documents shall be payable to “**DENNIS ENGINEERING COMPANY**”. Any

PLANHOLDER, upon returning the Contract Documents in good condition within **ten (10) days** following the Bid Opening, will receive a \$200.00 refund.

A pre-bid conference will be held at 11:00 a.m. local time on January 4, 2024 at the Socorro City Hall located at 111 School of Mines Road, Socorro, NM 87801 Code. Representatives of the Owner and Engineer will be present to discuss the Project. Bidders are ENCOURAGED to attend and participate in the conference.

Bid security shall be furnished in accordance with the Instructions to Bidders.

Owner: City of Socorro

By: Leopoldo (Polo) Pineda

Title: Clerk

Date: December 16, 2024

+ + END OF ADVERTISEMENT FOR BIDS + +



# SECTION 00200

## INSTRUCTIONS TO BIDDERS

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## **ARTICLE 1 - DEFINED TERMS**

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. Issuing Office – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

## **ARTICLE 2 - COPIES OF BIDDING DOCUMENTS**

- 2.01 Complete sets of the Bidding Documents may be obtained from the Issuing Office in the number, format and for the deposit sum, if any, stated in the advertisement or invitation to bid. The deposit will be refunded to each document holder of record who returns a complete set of Bidding Documents in good condition within 10 days after opening of 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.

## **ARTICLE 3 - QUALIFICATION OF BIDDERS**

- 3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within 5 days of Owner's request, Bidder shall submit (a) written evidence establishing its qualifications such as financial data, previous experience, and present commitments, and (b) the following additional information:
- A. Any Bidder submitting a bid shall have a valid license issued by the New Mexico Regulation and Licensing Department and other State and Local agencies, as required, to bid and perform the type of work to be undertaken.
- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of the Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.04 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**

- 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

- A. Subsurface and Physical Conditions; Hazardous Environmental 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 or 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. The Issuing Office will make copies of reports and drawings referenced above available to any Bidder on request, at the cost of reproduction and delivery. 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**

#### 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**

- 6.01 A pre-Bid conference will be held at the time and location stated in the invitation or advertisement to bid. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are ENCOURAGED to attend and participate in the conference. Engineer will transmit to all

prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

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

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all parties recorded as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may 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 as deemed advisable by Owner or Engineer.

## **ARTICLE 8 - BID SECURITY**

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of **five (5)** percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a certified check, bank money order, or a Bid bond (EJCDC Form C-430, included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions. If a Bid bond is provided on a form other than the EJCDC Form C-430, the Bid shall be considered nonresponsive.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 10 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within seven days after the Bid opening.

## **ARTICLE 9 - CONTRACT TIMES**

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

## **ARTICLE 10 - LIQUIDATED DAMAGES**

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

## **ARTICLE 11 - SUBSTITUTE AND “OR-EQUAL” ITEMS**

- 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**

- 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 to Owner a list of the Subcontractors or Suppliers proposed for those portions of the Work for which such identification is required.

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, without an increase in Bid price.

- 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 not 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 not award work to Subcontractor(s) in excess of the limits stated in Paragraph 7.06 of the Supplementary Conditions.

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

13.01 The Bid Form is included with the Bidding Documents.

- 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 Bid item, or alternative 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 a 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 New Mexico.

13.03 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity" (which Owner or its representative has set forth in the Bid Form) for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by the 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.

13.04 *Allowances*

- A. For cash allowances the Bid price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

## **ARTICLE 14 - SUBMITTAL OF BID**

14.01 With each copy of the Bidding Documents, Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 7 of the Bid Form.

- 14.02 A Bid shall be received 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 a plainly marked package with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to:

City of Socorro  
111 School of Mines Road  
Socorro, NM 87801

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

#### **ARTICLE 15 - MODIFICATION AND WITHDRAWAL OF BID**

- 15.01 A Bid may be withdrawn by delivering written or telegraphic notice to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, 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 16 - OPENING OF BIDS**

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

#### **ARTICLE 17 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

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

#### **ARTICLE 18 - EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner 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.

18.02 If Owner awards the contract for the Work, such award shall be to the responsible Bidder submitting the lowest responsive Bid.

18.03 *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. In evaluating Bids, Owner will consider the Resident Contractor Preference and the Resident Veteran Preference, as applicable.

C. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.

D. If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interest of the Project.

18.04 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.

18.05 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 19 - BONDS AND INSURANCE**

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

## **ARTICLE 20 - SIGNING OF AGREEMENT**

20.01 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 **10 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 copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

## **ARTICLE 21 - PREVAILING WAGE RATES**

21.01 Bidder is notified that the Successful Bidder shall pay to their employees, employed on the site of the project, the wage rates and fringe benefit rates included in the Supplementary Conditions. The higher of federal or state wage rates shall be paid for each classification, as applicable. Federally assisted projects in excess of \$2,000.00 are subject to Federal Wage Standards. State assisted projects in excess of \$60,000.00 are subject to State Wage Standards.

## **ARTICLE 22 - CONTRACTOR LICENSURE**

22.01 A Bidder can only submit a Bid as the prime contractor if the major portion of the work, based on dollar amount, is authorized by the classification of the Bidder's license. Any work outside the scope of the Bidder's license classification(s) must be subcontracted.

## **ARTICLE 23 - BRIBES, GRATUITIES AND KICKBACKS**

23.01 Reference is hereby made to the criminal laws of New Mexico, which prohibits bribes, kickbacks, and gratuities, violation of which constitutes a felony.

## **ARTICLE 24 - REGISTRATION OF CONTRACTORS AND SUBCONTRACTORS FOR PUBLIC WORKS CONTRACTS**

24.01 In order to submit a bid valued at more than sixty thousand dollars (\$60,000.00), or to be considered for award of any portion of a public works project greater than sixty thousand dollars (\$60,000.00) the contractor serving as the prime contractor, subcontractor, or any tier thereof, shall be registered and obtain a New Mexico Public Works Registration Number.

## **ARTICLE 25 - CAMPAIGN CONTRIBUTION DISCLOSURE**

25.01 A Bidder or family member or representative of the Bidder shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the solicitation for Bids.

## **ARTICLE 26 - RESIDENT CONTRACTOR PREFERENCE AND RESIDENT VETERAN CONTRACTOR PREFERENCE**

26.01 In order for a Bidder to be eligible for the Resident Contractor Preference (pursuant to 13-4-2 NMSA 1978) or a Resident Veteran Preference (pursuant to Section 13-1-21 NMSA 1978) the Bidder shall submit with the Bid a copy of valid Resident Contractor Certificate, or a valid Resident Veteran Contractor Certificate.

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BIDDER: \_\_\_\_\_

**SECTION 00410  
BID FORM**

**City of Socorro**

**Manzanares Avenue Street and Drainage Improvements  
ITB No. 01162024**

**January 16, 2024**

**LP10039**

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BIDDER: \_\_\_\_\_

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## ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

City of Socorro  
111 School of Mines Road  
Socorro, NM 87801

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

## ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 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 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

## ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting a Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

**Addendum No.**

**Addendum Date**


B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied 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.



BIDDER: \_\_\_\_\_

- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any 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. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this 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. 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 given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and 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 4 – BIDDER'S CERTIFICATION**

##### **4.01 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 collusive 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. For the purposes of this Paragraph 4.01.D:
  - 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;

BIDDER: \_\_\_\_\_

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 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following prices(s):
- 5.02 All specified cash allowances are included in the price(s) set forth above, and have been computed in accordance with Paragraph 13.02 of the General Conditions.

MANZANARES AVENUE STREET AND DRAINAGE IMPROVEMENTS					
BASE BID SCHEDULE I: Sta. 0+48.36 - Sta. 4+69.60					
Bid Item	Description	Unit	Estimated Quantity	Unit Price	Extended Amount
203000	UNCLASSIFIED EXCAVATION	LS	1		
207000	SUBGRADE PREPARATION	SY	2940		
303010	BASE COURSE 6", IN PLACE	CY	490		
414000	COLD MILLING (BITUMINOUS)	SY	3040		
423270	4" HMA SP-IV COMPLETE	SY	2940		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1		
603000	TEMPORARY EROSION AND SEDIMENT CONTROL	LS	1		
607079	PEDESTRIAN/BICYCLE RAILING	LF	60		
608004	CONCRETE SIDEWALK, 4"	SY	530		
608010	CURB RETURN W/FILLET (TYPE III)	EA	4		
608106	CONCRETE DRIVEPAD, 6"	SY	130		
609100	PRECAST CONCRETE PARKING BLOCK	EA	4		
609318	CONCRETE APRON CURB AND GUTTER, TYPE "F" 6" X 24"	LF	10		
609424	CONCRETE BARRIER CURB AND GUTTER, TYPE "B" 6" X 24"	LF	540		
609648	CONCRETE VALLEY GUTTER, 6" X 48"	LF	80		
609706	CONCRETE LAYDOWN CURB AND GUTTER, TYPE "E" 6" X 24"	LF	210		

BIDDER: \_\_\_\_\_

618000	TEMPORARY TRAFFIC CONTROL AND MANAGEMENT	LS	1		
621000	MOBILIZATION	LS	1		
662100	6' X 6' UTILITY VAULT	EA	1		
662400	MANHOLE ADJUSTMENT	EA	1		
663855	ADJUST VALVE BOX TO GRADE	EA	2		
663865	ADJUST WATER METER TO GRADE	EA	6		
701030	REMOVE AND RESET PANEL SIGNS	EA	1		
704000	REFLECTORIZED PAINTED MARKINGS 4"	LF	3250		
704008	REFLECTORIZED PAINTED MARKING COMBINATION (THRU AND LEFT) ARROW	EA	1		
704009	REFLECTORIZED PAINTED MARKING RIGHT ARROW	EA	1		
704012	REFLECTORIZED PAINTED MARKING WORD	EA	4		
704036	REFLECTORIZED PAINTED HANDICAPPED SYMBOL	EA	2		
801000	CONSTRUCTION STAKING BY CONTRACTOR	LS	1		
901000	CONTRACTORS QUALITY CONTROL CONSTRUCTION TESTING	ALL	1		
<b>Sub-Total Base Bid Schedule I: Sta. 0+48.36 - Sta. 4+69.60</b>					
<b>Gross Receipt Tax @</b>					<b>7.5625%</b>
<b>Total Base Bid Schedule I: Sta. 0+48.36 - Sta. 4+69.60</b>					

BIDDER: \_\_\_\_\_

<b>MANZANARES AVENUE STREET AND DRAINAGE IMPROVEMENTS</b>					
<b>ADDITIVE BID SCHEDULE I: Sta. 4+69.60 - Sta. 11+09</b>					
<b>Bid Item</b>	<b>Description</b>	<b>Unit</b>	<b>Estimated Quantity</b>	<b>Unit Price</b>	<b>Extended Amount</b>
203000	UNCLASSIFIED EXCAVATION	LS	1		
207000	SUBGRADE PREPARATION	SY	3030		
303010	BASE COURSE 6", IN PLACE	CY	510		
414000	COLD MILLING (BITUMINOUS)	SY	3000		
423270	4" HMA SP-IV COMPLETE	SY	3030		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1		
603000	TEMPORARY EROSION AND SEDIMENT CONTROL	LS	1		
608004	CONCRETE SIDEWALK, 4"	SY	320		
608008	CURB RETURN W/FILLET (TYPE I)	EA	1		
608009	CURB RETURN W/FILLET (TYPE II)	EA	1		
608010	CURB RETURN W/FILLET (TYPE III)	EA	1		
608011	CURB RETURN W/FILLET (TYPE IV)	EA	1		
608106	CONCRETE DRIVEPAD, 6"	SY	60		
609318	CONCRETE APRON CURB AND GUTTER, TYPE "F" 6" X 24"	LF	630		
609424	CONCRETE BARRIER CURB AND GUTTER, TYPE "B" 6" X 24"	LF	350		
609648	CONCRETE VALLEY GUTTER, 6" X 48"	LF	80		
609706	CONCRETE LAYDOWN CURB AND GUTTER, TYPE "E" 6" X 24"	LF	50		
618000	TEMPORARY TRAFFIC CONTROL AND MANAGEMENT	LS	1		
662400	MANHOLE ADJUSTMENT	EA	1		
663855	ADJUST VALVE BOX TO GRADE	EA	3		
701030	REMOVE AND RESET PANEL SIGNS	EA	1		
704000	REFLECTORIZED PAINTED MARKINGS 4"	LF	2540		
704012	REFLECTORIZED PAINTED MARKING WORD	EA	2		
704036	REFLECTORIZED PAINTED HANDICAPPED SYMBOL	EA	2		
801000	CONSTRUCTION STAKING BY CONTRACTOR	LS	1		
901000	CONTRACTORS QUALITY CONTROL CONSTRUCTION TESTING	ALL	1		
<b>Sub-Total Additive Bid Schedule I: Sta. 4+69.60 - Sta. 11+09</b>					
<b>Gross Receipt Tax @</b>				<b>7.5625%</b>	
<b>Total Additive Bid Schedule I: Sta. 4+69.60 - Sta. 11+09</b>					

- 5.03 Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.
- 5.04 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. Approximately \$460,000 - \$470,000 is available for construction.

#### **ARTICLE 6 – TIME OF COMPLETION**

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

#### **ARTICLE 7 – ATTACHMENTS TO THIS BID**

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security in the form of a Bid bond (EJCDC Form C-430) or Certified Check;
  - B. List of Proposed Subcontractors (Guide A-1);
  - C. Campaign Contribution Disclosure Form (Guide A-2)
  - D. Work Experience Questionnaire (Guide A-3);
  - E. Work Experience Schedule (Guide A-4);
  - F. Resident or Veteran Preference Certificate, if applicable; and

#### **ARTICLE 8 – DEFINED TERMS**

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

BIDDER: \_\_\_\_\_

**ARTICLE 9 – BID SUBMITTAL**

BIDDER: *[Indicate correct name of bidding entity]*

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

*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_

*(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)*

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

*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_

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

Submittal Date: \_\_\_\_\_

Address for giving notices:

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

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Contact Name and e-mail address: \_\_\_\_\_

\_\_\_\_\_

State Contractor License No. and Classification \_\_\_\_\_

Employers Tax ID No.: \_\_\_\_\_

Resident or Veteran Bidder's Preference No.:\* \_\_\_\_\_

New Mexico Public Works Registration No.: \_\_\_\_\_

*\*Current Certificate must be attached to be considered in bid award.*

BIDDER: \_\_\_\_\_

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## List of Subcontractors

1. To be fully executed and included with Bid as a condition of the Bid (§13-4-31 through §13-4-42 NMSA 1978), including all Subcontractors providing services valued at the greater of \$5,000 or one half of one percent of the engineers estimate, pursuant to §13-4-34 NMSA 1978.
2. Except as otherwise provided in this subsection, a contractor or subcontractor that submits a bid valued at more than sixty thousand dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 NMSA 1978] shall be registered with the labor and industrial division of the labor department. (13-4-13.1A NMSA 1978)
3. List only one subcontractor for each category of work.
4. Failure to comply with these requirements will make the Bid nonresponsive and the Bid will be rejected.

Nature or Category of Work	Name of Subcontractor	Total Approximate Dollar Amount of Subcontract	Location or Place of Business	NM Dept of Labor Registration Information
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____

(Use additional pages, if necessary)



BIDDER: \_\_\_\_\_

Nature or Category of Work	Name of Subcontractor	Total Approximate Dollar Amount of Subcontract	Location or Place of Business	NM Dept of Labor Registration Information
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____
				Registration Number: _____ Expiration Date: _____

(Use additional pages, if necessary)

## Campaign Contribution Disclosure Form

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

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

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

The following definitions apply:

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

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

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

BIDDER: \_\_\_\_\_

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

**“Prospective contractor”** means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections 13-1-28 through 13-1-199 NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or small purchase contract.

**“Representative of a prospective contractor”** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

**Name(s) of Applicable Public Official(s) if any:  
(Completed by State Agency or Local Public Body)**

Ravi Bhasker, Mayor  
Gordy Hicks, Councilor  
Peter D. Romero, Councilor  
Mary Ann Chavez-Lopez, Councilor  
Anton Salome, Councilor  
Michael Olguin, Councilor  
Deborah Dean, Councilor  
Damian Campo, Councilor  
Nick Fleming, Councilor

BIDDER: \_\_\_\_\_

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_  
\_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(The above fields are unlimited in size)

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

— OR —

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

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

BIDDER: \_\_\_\_\_

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BIDDER: \_\_\_\_\_

## Work Experience Questionnaire

Your bid will be considered non-responsive and will be rejected unless this questionnaire is completed and received by the Owner with the bid documents.

All statements made herein will be investigated, any misrepresentation of facts will disqualify bidder, and bid will be considered non-responsive and will be rejected.

1. Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. \_\_\_\_\_

2. How many years has your organization been in business as a Contractor under your present business name? \_\_\_\_\_

3. How many years experience in construction work has your organization had:  
(a) as a General Contractor: \_\_\_\_\_; (b) as a Subcontractor: \_\_\_\_\_

4. Have you ever failed to complete any work awarded to you within the timeframe allowed by the contract?  
☐ Yes ☐ No

If so, give dates, projects and reasons therefore:

---

---

---

5. Provide information required in the following WORK EXPERIENCE SCHEDULE. List a sufficient number of projects to indicate to the OWNER your experience in the field of work covered by the Contract Documents. The schedule should include work performed within the last 5 years and must include the Owner's name and contact information as shown on the schedule.

6. Have you ever been defaulted under any Contract?  
☐ Yes ☐ No

7. Have liquidated damages, or other monetary penalties, ever been assessed against you for failure to complete on time?  
☐ Yes ☐ No

If so, give amounts, projects and reasons therefore:

---

---

---

If so, what has your company done as corrective action to avoid having this problem reoccur?

---

---

---

BIDDER: \_\_\_\_\_

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BIDDER: \_\_\_\_\_

## Work Experience Schedule

Year	Owner's Name(s), Address & Phone No.	Design Engineer's Name, Address & Phone No.	Contract Amount	Project Title and Brief Description of Work Performed



BIDDER: \_\_\_\_\_

<b>Year</b>	<b>Owner's Name(s), Address &amp; Phone No.</b>	<b>Design Engineer's Name, Address &amp; Phone No.</b>	<b>Contract Amount</b>	<b>Project Title and Brief Description of Work Performed</b>

BIDDER: \_\_\_\_\_

## SECTION 00430 BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.  
BIDDER (*Name and Address*):

SURETY (*Name and Address of Principal Place of Business*):

OWNER (*Name and Address*):

City of Socorro  
111 School of Mines Road  
Socorro, NM 87801

BID

Bid Due Date: January 16, 2024

Description (*Project Name and Include Location*):

Reconstruction of Manzanares Avenue with new sidewalks, drive pads, curb and gutter, asphalt surfacing and other minor items to provide a complete project.

BOND

Bond Number:

Date (*Not earlier than Bid due date*):

Penal sum

\_\_\_\_\_  
(Words)

\$

\_\_\_\_\_  
(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

**BIDDER**

**SURETY**

\_\_\_\_\_  
Bidder's Name and Corporate Seal (Seal)

\_\_\_\_\_  
Surety's Name and Corporate Seal (Seal)

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

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.*

BIDDER: \_\_\_\_\_

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

<b>BID FORM CHECKLIST</b>		
<b>City of Socorro - Manzanares Avenue Street and Drainage Improvements</b>		
<b>BID FORM(S)</b>	<b>Document</b>	<b>Contractor Review and Verification</b>
00410	Bidder has acknowledged the addenda for the project.	
00410	Bidder has completed the bid schedules in their entirety and they are mathematically correct.	
00410	A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.	
00410	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.	
00410	A Bid by a limited liability company shall be executed in the name of the firm by a member of other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official office of the firm shall be shown.	
00410	A Bid by an individual shall show the Bidder's name and official address.	
00410	A Bid by a joint venture shall be executed by an authorized representative of each joint venture in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.	
00410	Bidder has identified their State Contractors License No. and Classification and is licensed to complete the work under this solicitation.	
00410	Bidder has identified their Employers Tax ID No.	
00410	Bidder has identified their resident Bidders Preference No. and has attached a valid Resident Contractor Certificate, or a valid Resident Veteran Contractor Certificate, if applicable.	
00410	Bidder has identified the New Mexico Public Works Registration No.	
00410	Bidder has listed their project manager and superintendent for the project and has attached resumes and work history experience.	

BIDDER: \_\_\_\_\_

Required Attachments		Contractor Review and Verification
Guide A-1	List of Subcontractors	
Guide A-2	Campaign Contribution Disclosure Form	
Guide A-3	Work Experience Questionnaire	
Guide A-4	Work Experience Schedule	
00430	Bidder has completed the Bid Bond using EJCDC Form C-430	

## SECTION 00510 NOTICE OF AWARD

Date of Issuance: 1/1/1901	
Owner: City of Socorro	Owner's Contract No.: 01162024
Engineer: DENNIS ENGINEERING COMPANY	Engineer's Project No.: 01233
Project: Manzanares Avenue Street and Drainage Improvements	Contract Name:
Bidder: Name of Contractor	
Bidder's Address: Mailing Address, City, State Zip	

**TO BIDDER:**

You are notified that Owner has accepted your Bid dated Bid Date for the above Contract, and that you are the Successful Bidder and are awarded a Contract for: Brief Work Description - describes scope of work awarded to contractor. i.e. Base Bid Schedule I and Additive Bid Schedule.

The Contract Price of the awarded Contract is: [Spell out dollar amount] Dollars. (*(\$-Numerals)*)

Three (3) unexecuted counterparts of the Agreement accompany this Notice of Award, and Three (3) copies of the Contract Documents accompany this Notice of Award.

Three (3) sets of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 10 days of the date of receipt of this Award:

1. Deliver to Owner Three (3) counterparts of the Agreement, fully executed by Bidder
2. Deliver with the executed Agreement(s) the Contract security [ e.g., performance and payment bonds] and insurance documentation as specified in the Instructions to Bidders (C-200), General Conditions (Article 2 and Article 6) and Supplementary Conditions (Article 2 and Article 6).

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.

City of Socorro  
Owner

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

\_\_\_\_\_  
Title

Copy to Engineer

[This page intentionally left blank]

**SECTION 00520**  
**AGREEMENT**  
**BETWEEN OWNER AND CONTRACTOR FOR**  
**CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Socorro (“Owner”) and  
Name of Contractor (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 - WORK**

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Brief Work Description - describes scope of work awarded to contractor. i.e. Base Bid Schedule I and Additive Bid Schedule.

**ARTICLE 2 - THE PROJECT**

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Reconstruction of Manzanares Avenue with new sidewalks, drive pads, curb and gutter, asphalt surfacing and other minor items to provide a complete project..

**ARTICLE 3 - ENGINEER**

- 3.01 The Project has been designed by [DENNIS ENGINEERING COMPANY](#).
- 3.02 The Owner has retained [DENNIS ENGINEERING COMPANY](#) (“Engineer”) 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 4 - CONTRACT TIMES**

- 4.01 Time of the Essence
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 Contract Times: Days
- A. The Work will be substantially completed within **75** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and



completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **90** days after the date when Contract Times commence to run.

#### 4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
  3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

### ARTICLE 5 - CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

### ARTICLE 6 - PAYMENT PROCEDURES

#### 6.01 Submittal and Processing of Payments

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

#### 6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the i.e. 25 th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based

on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
  - a. 100 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - b. 100 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

#### 6.03 Final Payment

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

### ARTICLE 7 - INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of 1.5 percent per annum.

### ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, 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 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 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. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## **ARTICLE 9 - CONTRACT DOCUMENTS**

### **9.01 Contents**

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 8, inclusive).
  - 2. Performance bond (pages 1 to 4, inclusive).
  - 3. Payment bond (pages 1 to 4, inclusive).
  - 4. General Conditions (pages 1 to 72, inclusive).
  - 5. Supplementary Conditions (pages 1 to 12, inclusive).
    - a. State Wage Decision

6. Specifications as listed in the table of contents of the Project Manual.
  7. Drawings (not attached but incorporated by reference) consisting of twenty nine (9) sheets with each sheet bearing the following general title: Manzanares Avenue Street and Drainage Improvements
  8. Addenda (numbers X to Y, inclusive).
  9. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 1 to 8, inclusive).
    - b. Construction Award Letter
    - c. Documentation submitted by Contractor prior to Notice of Award:
      - 1) List of Subcontractors (Guide A-1)
      - 2) Campaign Contribution Disclosure Form (Guide A-2)
      - 3) Work Experience Questionnaire (Guide A-3)
      - 4) Work Experience Schedule (Guide A-4)
      - 5) Veterans Preference Certification (Guide A-5), if applicable
  10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed
    - b. Work Change Directives
    - c. Change Orders
    - d. Field Orders
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE 10 - MISCELLANEOUS**

### **10.01 Terms**

- A. Terms used in the Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

#### 10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, 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, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

#### 10.03 Successors and Assigns

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

#### 10.04 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.

#### 10.05 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 10.05:
  - 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.

#### 10.06 Other Provisions

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

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

This Agreement will be effective on **1/1/1901** (which is the Effective Date of the Contract).

OWNER:

City of Socorro

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

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

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

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

Address for giving notices:

Ravi Bhasker, Mayor  
c/o Name (usually Clerk)

111 School of Mines Road

Socorro, NM 87801

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

CONTRACTOR:

Name of Contractor

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

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

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

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

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

Address for giving notices:

Name of Contractor

Mailing Address

City, State Zip

License No.: \_\_\_\_\_  
(where applicable)

## SECTION 00550 NOTICE TO PROCEED

Owner:	City of Socorro	Owner's Contract No.:	01162024
Contractor:	Name of Contractor	Contractor's Project No.:	
Engineer:	DENNIS ENGINEERING COMPANY	Engineer's Project No.:	01233
Project:	Manzanares Avenue Street and Drainage Improvements	Contract Name:	
		Effective Date of Contract:	1/1/1901

### TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on 1/1/1901. *[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 number of days to achieve Substantial Completion is **75**, and the number of days to achieve readiness for final payment is **90**.

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

1. Deliver to Owner (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance in accordance with Paragraph 2.01.B of the General Conditions.
2. Deliver pre-construction video or photographs to Engineer.
3. Deliver preliminary schedules in accordance with Paragraph 2.05 of the General Conditions.
4. Deliver to Engineer documentation of compliance with USEPA-NPDES Construction General Permit and the Project specifications.
5. Deliver to Engineer construction permits.
6. Deliver to Engineer a Traffic Control Plan.

Owner: City of Socorro

Authorized Signature

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

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

Date Issued: \_\_\_\_\_

Copy to Engineer



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# SECTION 00610

## PERFORMANCE BOND

CONTRACTOR *(name and address)*

Name of Contractor

Mailing Address

City, State Zip

OWNER *(name and address):*

City of Socorro

111 School of Mines Road

Socorro, NM 87801

CONSTRUCTION CONTRACT

Effective Date of Agreement: 1/1/1901

Amount: [\$-Numerals]

Description *(name and location)*

Brief Work Description - describes scope of work awarded to contractor. i.e.  
Base Bid Schedule I and Additive Bid Schedule

SURETY *(name and address of principal place of business):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Name of Contractor \_\_\_\_\_ *(seal)*

Contractor's Name and Corporate Seal

\_\_\_\_\_ *(seal)*

Surety's Name and Corporate Seal

By:

Signature

Print Name

Title

Attest:

Signature

Title

By:

Signature *(attach power of attorney)*

Print Name

Title

Attest:

Signature

Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
  - 3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
  - 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
  - 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
  - 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
    - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
    - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
  - 7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
  - 7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
14. Definitions
  - 14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
  - 14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
  - 14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
  - 14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

## SECTION 00615 PAYMENT BOND

CONTRACTOR *(name and address)*

Name of Contractor

Mailing Address

City, State Zip

OWNER *(name and address):*

City of Socorro

111 School of Mines Road

Socorro, NM 87801

CONSTRUCTION CONTRACT

Effective Date of Agreement: 1/1/1901

Amount: [\$-Numerals]

Description *(name and location)*

Brief Work Description - describes scope of work awarded to contractor. i.e.  
Base Bid Schedule I and Additive Bid Schedule

SURETY *(name and address of principal place of business):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Name of Contractor \_\_\_\_\_ *(seal)*

Contractor's Name and Corporate Seal

\_\_\_\_\_ *(seal)*

Surety's Name and Corporate Seal

By:

Signature

Print Name

Title

By:

Signature *(attach power of attorney)*

Print Name

Title

Attest:

Signature

Title

Attest:

Signature

Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.**

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

10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
  - 16.1 Claim: A written statement by the Claimant including at a minimum:
    1. The name of the Claimant;
    2. The name of the person for whom the labor was done, or materials or equipment furnished;
    3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
    4. A brief description of the labor, materials, or equipment furnished;
    5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
    6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
    7. The total amount of previous payments received by the Claimant; and
    8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
  - 16.2 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
  - 16.3 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.



- 16.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

**SECTION 00700**  
**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 AND INSURANCE**

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

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 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. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. 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. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. 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.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. 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*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).

3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
  4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  2. claims for damages insured by reasonably available personal injury liability coverage.
  3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
    - a. Such insurance shall be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
  3. Broad form property damage coverage.
  4. Severability of interest.
  5. Underground, explosion, and collapse coverage.
  6. Personal injury coverage.
  7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
  8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured-Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
1. include at least the specific coverages provided in this Article.
  2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
  3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.

4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
  5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

#### 6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

#### 6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
  1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
  2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially

generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
  4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
  5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
  8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  12. include performance/hot testing and start-up.
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

- C. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

#### 6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
  - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and



2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

#### 6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

### **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 Change Order, a Work Change Directive, or a Field Order.
  - 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 other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to

Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision 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 *Controlling Law*

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

18.08 *Headings*

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

# **SECTION 00800**

## **SUPPLEMENTARY CONDITIONS**

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## **Section 00800**

### **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 so amended or supplemented remain in full force and effect.

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

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

#### **SC-1.01            DEFINED TERMS**

##### **SC-1.01    Delete Paragraph 1.01.A.3 in its entirety and insert the following in its place:**

3. Form C-620 is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

##### **SC-1.01    Delete Paragraph 1.01.A.8 in its entirety and insert the following in its place:**

8. Form C-941 which is signed by Contractor and Owner and authorizes and addition, deletion, or revision in the Work of an adjustment in the Contract Price or the contract Times, issued on or after the effective Date of the Agreement.

#### **SC-2.02            COPIES OF DOCUMENTS**

##### **SC-2.02.A.    Amend the first sentence of Paragraph 2.02.A by striking out the following words:**

“and one copy in electronic portable document format (PDF).”

#### **SC-3.01            INTENT**

##### **SC-3.01.C.    Delete Paragraph 3.01.C in its entirety and insert the following in its place**

C. Deleted.

#### **SC-5.03            SUBSURFACE AND PHYSICAL CONDITIONS**

##### **SC-5.03    Add the following new paragraphs immediately after Paragraph 5.03.B:**

- C. The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:



1. Report dated February 14, 2023, prepared by Western Technologies, Inc., Socorro, NM, entitled: “Manzanares Avenue Reconstruction”, consisting of 20 pages. The Technical Data contained in such report upon whose accuracy Contractor may rely are Plat 1 through Plaste B-1,.

**SC-5.06            HAZARDOUS ENVIRONMENTAL CONDITIONS**

**SC-5.06    Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:**

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

**SC-6.03            CONTRACTOR’S LIABILITY INSURANCE**

**SC-6.03    Add the following new paragraph immediately after Paragraph 6.03.J:**

- K. 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:

State:	Statutory
--------	-----------

Federal, if applicable (e.g., Longshoreman’s):	Statutory
--	-----------

Employer’s Liability:

Bodily injury, each accident	\$500,000.00
------------------------------	--------------

Bodily injury by disease, each employee	\$500,000.00
---	--------------

Bodily injury/disease, aggregate	\$500,000.00
----------------------------------	--------------

Foreign voluntary worker compensation	Statutory
---------------------------------------	-----------

2. Contractor’s Commercial General Liability under paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate	\$2,000,000.00
-------------------	----------------

Products – Completed Operations Aggregate	\$1,000,000.00
---	----------------

Personal and Advertising Injury	\$1,000,000.00
---------------------------------	----------------

Each occurrence (Bodily Injury and Property Damage)	\$1,000,000.00
---	----------------

3. Automobile Liability under Paragraph 6.03.D of the General Conditions:

Bodily Injury:

Each person \$1,000,000.00

Each accident \$1,000,000.00

Property Damage:

Each accident \$1,000,000.00

OR

Combined Single Limit of \$1,000,000.00

4. Excess or Umbrella Liability:

Per Occurrence \$2,000,000.00

General Aggregate \$2,000,000.00

5. Contractor's Pollution Liability:

a. Each Occurrence \$

b. General Aggregate \$

☒ If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract.

6. Additional Insureds: In addition to Owner and Engineer, include as additional insureds the following:

a. City of Socorro

b. DENNIS ENGINEERING COMPANY

c. Western Technologies, Inc.

7. Contractor's Professional Liability:

a. Each Claim \$N/A

b. Annual Aggregate \$N/A

**SC-6.05 PROPERTY INSURANCE**

**SC-6.05.A.1 Add the following new subparagraph after subparagraph 6.05.A.1:**

a. In addition to Owner, Contractor, and all Subcontractors, include as insureds the following:

- 1) DENNIS ENGINEERING COMPANY
- 2) Western Technologies, Inc.
- 3) NMDOT
- 4) Utility Owners

**SC-7.06 CONCERNING SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

**SC-7.06 Add a new paragraph immediately after Paragraph 7.06.O:**

- P. Contractors, Subcontractors, Sub-subcontractors, and any tier thereof shall make prompt payment to their Subcontractors and Suppliers for amounts owed for Work performed in accordance with the Contract within seven days after receipt of payment from the owner, Contractor, or Subcontractor.
- Q. The Contractor shall not subcontract Work valued at more than fifty percent (50%) of the Contract Price to Subcontractor(s) without prior written approval of the Owner.
- R. No Contractor shall substitute any person as Subcontractor in place of the Subcontractor listed in the original Bid, except for those reasons identified in 13-4-36 NMSA 1978.

**SC-7.16 SHOP DRAWINGS, SAMPLES, AND OTHER SUBMITTALS**

**SC-7.16.A.3 Amend the last sentence of Paragraph 7.16.A.3 by striking out the following words:**

“and approval”

**SC-7.16.B Amend the first sentence of Paragraph 7.16.B by striking out the following words:**

“and approval”

**SC-7.16.B.3 Amend the first sentence of Paragraph 7.16.B.3 by striking out the following words:**

“and approval”

**SC-7.16.D.1 Amend the second sentence of Paragraph 7.16.D.1 by striking out the following words:**

“and approval”

**SC-7.16.D.2 Amend the first sentence of Paragraph 7.16.D.2 by striking out the following words:**

“and approval”

**SC-7.16.D.3 Amend the first sentence of Paragraph 7.16.D.3 by striking out the following words:**

“and approval”

**SC-7.16.D.4 Amend the first sentence of Paragraph 7.16.D.4 by striking out the following words:**

“and approval”

**SC-7.16.D.5 Amend the first sentence of Paragraph 7.16.D.5 by striking out the following words:**

“and approval”

**SC-7.16.D.6 Amend the first sentence of Paragraph 7.16.D.6 by striking out the following words:**

“and approval”

**SC-7.16.E.1 Amend the first sentence of Paragraph 7.16.E.1 by striking out the following words:**

“and approval”

**SC-7.16.E.2 Delete Paragraph 7.16.E.2 in its entirety and replace with the following:**

2. Contractor shall furnish required submittals with sufficient information and accuracy in order to demonstrate the item conforms to the Contract requirements with no more than three submittals. Engineer will record Engineer’s time for reviewing a fourth or subsequent submittals of Shop Drawings, sample or other items, 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.

**SC-7.16.E.3 Delete Paragraph 7.16.E.3 in its entirety and replace with the following:**

3. In the event that Contractor requests a change of a previously approved submittal items, 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 changes, unless the need for such change is beyond the control of Contractor.

## **SC-7.19 DELEGATION OF PROFESSIONAL DESIGN SERVICES**

**SC-7.19.D Amend the first sentence of Paragraph 7.19.D by striking out the following words:**

“and approval”

**SC-7.19.D Amend the last sentence of Paragraph 7.19.D by striking out the following words:**

“and approval”

## **SC-9.11 EVIDENCE OF FINANCIAL ARRANGEMENTS**

**SC-9.11 Add the following new paragraph immediately after Paragraph 9.11.A:**

- B. On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfill the increased financial obligations to be undertaken by Owner as a result of such Change Order.

## **SC-10.03 PROJECT REPRESENTATIVE**

### **SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.A:**

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site on a periodic basis, 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 by 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 reviewed 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. Consult with Engineer in advance of scheduled major inspections, tests, and systems start-ups of important phases of the Work
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training and conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Accompany visiting inspectors representing public or other agencies having jurisdiction of the Project, record the results of these inspections, and report to Engineer.

10. Records:

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor and other Project-related documents.
- b. 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 change 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.

- c. 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.
- d. Maintain records for use in preparing Project Documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project Documentation to Engineer.

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. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. 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. Observe Contractor arranged inspections required by Laws and Regulations applicable to the Work including but not limited to those performed by public agencies having jurisdiction over the Work.

- c. 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.
- d. 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.

**SC-11.01            AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS**

**SC-11.01.A.2 Amend the second sentence of Paragraph 11.01.A.2 to read as follows:**

- 2. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 7 days after the completion of the Work set out in the Work Change Directive.

**SC-11.06            CHANGE PROPOSALS**

**SC-11.06.A.1 Amend the second sentence of Paragraph 11.06.A.1 to read as follows:**

- 1. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 7 days after the submittal of the Change Proposal.



**SC-11.06.A.2 Delete Paragraph 11.06.A.2 in its entirety and insert the following in its place:**

2. *Engineer's Action:* Engineer will review each Change Proposal and, within 15 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 15 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.

**SC-12.01 CLAIMS**

**SC-12.01.B Amend the first sentence of Paragraph 12.01.B to read as follows:**

- B. The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 15 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 15 days of the decision under appeal.

**SC-12.01.E Delete Paragraph 12.01.E in its entirety and insert the following in its place:**

- 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 15 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

**SC-12.01.F Delete Paragraph 12.01.F in its entirety and insert the following in its place:**

- 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 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 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 15 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

**SC-13.03 UNIT PRICE WORK**

**SC-13.03.E Delete Paragraph 13.03.E in its entirety and insert the following in its place:**

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
  1. if the extended price of a particular item of Unit Price Work amounts to five (5) percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than twenty (20) percent from the estimated quantity of such item indicated in the Agreement; and
  2. if there is no corresponding adjustment with respect to any other item of Work; and

3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

## **SC-15.01        PROGRESS PAYMENTS**

### **SC-15.01.B.1 Amend the first sentence of Paragraph 15.01.B.1 to read as follows:**

1. At least 55 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.

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

1. Notice of Extended Payment Provision: This Contract allows the Owner to make payments within forty-five (45) days after submission of an undisputed request for payment.
  - a. Forty-five (45) days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to the provisions of 15.01.E) will become due, and when due will be paid by Owner to Contractor.

## **SC-15.06        FINAL PAYMENT**

### **SC-15.06.A.2 Add the following new paragraph immediately after Paragraph 15.06.A.2.e:**

- f. Affidavit of Payment and Release of Liens for Contractor;
- g. Affidavit of Payment and Release of Liens for each Subcontractor and Supplier;
- h. Labor Standards Certificate;
- i. Contractor As-built Drawings;
- j. And other closeout documents, certifications and/ or Affidavits as identified in the Project specifications.

### **SC-15.06.D Delete Paragraph 15.06.D in its entirety and insert the following in its place:**

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

1. Notice of Extended Payment Provision: This Contract allows the Owner to make payments within forty-five (45) days after submission of an undisputed request for payment.
  - a. Forty-five 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.

#### **SC-16.04 CONTRACTOR MAY STOP WORK OR TERMINATE**

##### **SC-16.04.A Amend Paragraph 16.04.A to read:**

- 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 45 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.

##### **SC-16.04.B Amend the first sentence of Paragraph 16.04.B to read as follows:**

- A. 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 45 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.

#### **SC-18.07 CONTROLLING LAW**

##### **SC-18.07.A Delete Paragraph 18.07.A in its entirety and insert the following in its place:**

- A. This Contract is to be governed by the laws of the State of New Mexico in which the Project is located.

##### **SC-18.09 Add the following new section to Article 18:**

#### **SC-18.09 TORT CLAIMS ACT**

- A. Any liability of the Owner incurred in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, 41-4-4, et seq., as amended. The Owner and its public employees as defined by the New Mexico Tort Claims Act do not waive sovereign immunity, does not waive any defense, and do not waive any limitation on liability pursuant to said law. No provision of this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

# Contractor's Application for Payment

No. 1

Contractor: Contractor Address	Project: Manzanares Avenue Street and Drainage Improvements	
City, State ZIP	Project Nos.: LP10039	Application Period: From 2/1/2024 thru 2/29/2024
Owner: City of Socorro 111 School of Mines Road Socorro, NM 87801		Application Date: 3/1/2024

## CONTRACT CHANGE ORDER SUMMARY

## PAY APPLICATION

Change Order No.	Owner Approval Date	Amount w/o GRT			
		Addition	Deduction		
				1. Original Contract Value w/o NMGR	\$0.00
				2. Change Orders w/o NMGR	\$0.00
				3. Revised Contract Value (1+2)	\$0.00
				4. Work Completed, w/o NMGR	\$0.00
				5. Materials Stored this Period @ 100% of Invoice w/o NMGR	\$0.00
				6. Subtotal (4+5)	\$0.00
				7. Retainage @ 0%	\$0.00
				8. Less Previous Payments w/o NMGR	\$0.00
				9. Subtotal (6-7-8)	\$0.00
				10. NMGR @ 7.5625%	\$0.00
				11. Total Amount Due this Estimate (9+10)	\$0.00
				12. Amount Due Funding Source: LP10039	
Totals w/o GRT:		\$0.00	\$0.00		
Net Change w/o GRT:		\$0.00			

## CONTRACT TIME



Working Days



Calendar Days

Project on Schedule	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Project Start Date:	2/1/2024
Original Substantial Completion (days)	75		Project Substantial Completion Date (Original Contract)	4/16/2024
Revised Substantial Completion (days)	75		Project Substantial Completion Date (Revised Contract)	4/16/2024
Original Ready for Final Payment (days)	90		Ready for Final Payment Date (Original Contract)	5/1/2024
Revised Ready for Final Payment (days)	90		Ready for Final Payment Date (Revised Contract)	5/1/2024

## ORIGINAL CONTRACT PERCENT COMPLETE

Time 38.67% Funds 0.00%

## ACCEPTED BY:

Owner: City of Socorro

## CURRENT CONTRACT PERCENT COMPLETE

Time 38.67% Funds 0.00%

By:

Date:

## CONTRACTOR'S CERTIFICATION:

The undersigned Contractor certifies that: 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 of 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); 3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

## REQUESTED BY:

Contractor: Contractor

By:

Date:

## RECOMMENDED BY:

Engineer: DENNIS ENGINEERING COMPANY

By:

Date:

1<sup>st</sup> Funding Agency: Acknowledgement (if applicable)

2<sup>nd</sup> Funding Agency: Acknowledgement (if applicable)

By: N/A

Date:

By: N/A

Date:

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## CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:	City of Socorro	Owner's Contract No.:	01162024
Contractor:	Name of Contractor	Contractor's Contract No.:	
Engineer:	DENNIS ENGINEERING COMPANY	Engineer's Project No.:	01233
Project:	Manzanares Avenue Street and Drainage Improvements	Contract Name:	

This preliminary 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.

EXECUTED BY ENGINEER:

RECEIVED:

RECEIVED:

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
Owner (Authorized Signature)

By: \_\_\_\_\_  
Contractor (Authorized Signature)

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**Work Change Directive No. \_\_\_\_\_**

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Owner:	City of Socorro	Owner's Contract No.:	01162024
Contractor:	Name of Contractor	Contractor's Contract No.:	
Engineer:	DENNIS ENGINEERING COMPANY	Engineer's Project No.:	01233
Project:	Manzanares Avenue Street and Drainage Improvements	Contract Name:	

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

Description:

Attachments: [List documents supporting change]

**Purpose for Work Change Directive:**

Directive to proceed promptly with the Work described herein, prior to agreeing to changes on Contract Price and Contract Time, is issued due to: *[check one or both of the following]*

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

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

Contract Price \$\_\_\_\_\_ increase

Contract Time XX days increase

**Basis of estimated change in Contract Price:**

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

RECOMMENDED:

AUTHORIZED BY:

RECEIVED:

By: \_\_\_\_\_ By: \_\_\_\_\_ By: \_\_\_\_\_  
Engineer (Authorized Signature) Owner (Authorized Signature) Contractor (Authorized Signature)

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

Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Funding Agency (if applicable)

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

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



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# Contract Change Order

No. 1

Contractor: Contractor Address City, State ZIP	Project: Manzanares Avenue Street and Drainage Improvements
Owner: City of Socorro 111 School of Mines Road Socorro, NM 87801	LP10039
Date of Issue:xx/xx/xx	Effective Date:xx/xx/xx

The Contractor is hereby directed to make the following changes in the Contract Documents

Amount (w/o GRT)	Description
\$2.00	Explanation of change, additional items, lengths, quantities, etc.
-\$1.00	All deductions must be entered as negative numbers
\$1.00	Sub Total
\$1.08	Including NMGR @ 7.5625%

## Reason for Change Order

Reasons

## Attachments: (List documents supporting change and justifying cost and time)

Request for change

Other supportings docs

Change in Contract Price:		Change in Contract Times:	
Original Contract Price (w/ GRT):		Original Contract Times: Calendar Days <input checked="" type="checkbox"/> Working Days <input type="checkbox"/>	
\$0.00		Substantial Completion (days):	Ready for Final Payment (days):
		75	90
Increase or Decrease from Previously Approved Change Orders:		Increase or Decrease from Previously Approved Change Orders:	
Increase:	Decrease:	Substantial Completion (days):	Ready for Final Payment (days):
\$0.00	\$0.00	0 increase	0 increase
Contract Price Prior to this Change Order:		Contract Times Prior to This Change Order:	
\$0.00		Substantial Completion (days):	Ready for Final Payment (days):
		75	90
Increase or Decrease of this Change Order:		Increase or Decrease of this Change Order:	
Increase:	Decrease:	Substantial Completion (days):	Ready for Final Payment (days):
\$2.15	-\$1.08	0	0
Contract Price with all Approved Change Orders:		Contract Times with all Approved Change Orders:	
\$1.08		Substantial Completion (days):	Ready for Final Payment (days):
		75	90

RECOMMENDED: DENNIS ENGINEERING COMPANY	ACCEPTED: City of Socorro
By:	By:
Date:	Date:
ACCEPTED: Contractor	APPROVED BY FUNDING AGENCY: (if applicable)
By:	By: N/A
Date:	Date:

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Field Order No. \_\_\_\_\_

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Owner:	City of Socorro	Owner's Contract No.:	01162024
Contractor:	Name of Contractor	Contractor's Contract No.:	
Engineer:	DENNIS ENGINEERING COMPANY	Engineer's Project No.:	01233
Project:	Manzanares Avenue Street and Drainage Improvements	Contract Name:	

Contractor is hereby directed to promptly execute this Field Order, issued in accordance with General Conditions Paragraph 11.01, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference: \_\_\_\_\_  
Specification(s) Drawing(s) / Detail(s)

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

Attachments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ISSUED:

RECEIVED:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Engineer (Authorized Signature) Contractor (Authorized Signature)

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

Date: \_\_\_\_\_ Date: \_\_\_\_\_

Copy to: Owner

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## AFFIDAVIT OF PAYMENT AND RELEASE OF LIENS

**To All Whom It May Concern, To The Following I Do Solemnly Swear And Affirm:**

Owner: City of Socorro

Project: Manzanares Avenue Street and Drainage Improvements

Project No.(s): \_\_\_\_\_

WHEREAS, the undersigned, fro and in consideration of the sum of \_\_\_\_\_ (\$\_\_\_\_\_) Dollars received and, final payment in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) Dollars paid in accordance with the contract, the undersigned does hereby waive and release any lien rights to, or claim of lien with respect to and on said above described premises, and the improvements thereon, and on the monies or other considerations due or to become due from the Owner, on account of labor, services, materials, fixtures, apparatus or machinery heretofore or which may hereafter be furnished by the undersigned to or for the above described premises by virtue of said contract.

The undersigned, as Contractor for the above named Contract pursuant to the Conditions of the Contract hereby certifies that, final payment in the amount of \_\_\_\_\_ (\$\_\_\_\_\_), he/she has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his/her property might in any way be held responsible.

The undersigned hereby certifies that all work required to be done under terms of the above described Contract has been fully performed and completed in conformance with the Contract and that applicable provisions of the New Mexico Public Works Minimum Wage Act (§ 13-4-11 NMSA 1978) have been met.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Name of sole ownership, corporation or partnership

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

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**SUBCONTRACTORS/ SUPPLIERS**  
**AFFIDAVIT OF PAYMENT AND RELEASE OF LIENS**

**To All Whom It May Concern, To The Following I Do Solemnly Swear And Affirm:**

WHEREAS, the undersigned has been employed by (A) Name of Contractor, to furnish ☐ **labor**, ☐ **service**, **and/or** ☐ **materials** (B) Construction work, under contract (C) LP10039, , , for improvement of the premises described as (D) Manzanares Avenue Street and Drainage Improvements to the (E) City of Socorro, County of Socorro, State of New Mexico, the City of Socorro is the Owner.

**NOW, THEREFORE**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for and in

consideration of the sum of (F) \_\_\_\_\_ Dollars, with receipt of final payment in the amount of \$ \_\_\_\_\_ the undersigned does hereby waive and release any lien rights to, or claim of lien with respect to and on said above described premises, and the improvements thereon, and on the monies or other considerations due or to become due from the Owner, on account of labor, services, materials, fixtures, apparatus or machinery heretofore or which may hereafter be furnished by the undersigned to or for the above described premises by virtue of said contract.

The undersigned, as Contractor for the above named Contract pursuant to the Conditions of the Contract hereby certifies that, except as listed below, he/she has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his/her property might in any way be held responsible.

The undersigned hereby certifies that all work required to be done under terms of the above described Contract has been fully performed and completed in conformance with the Contract and that applicable provisions of the New Mexico Public Works Minimum Wage Act (§ 13-4-11 NMSA 1978) have been met.

**EXCEPTIONS:** (G) None

\_\_\_\_\_  
(H) Name of sole ownership, corporation or partnership

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

**INSTRUCTIONS:**

- (A) Person or firm with whom you agreed to furnish either labor, or services, or materials, or both.
- (B) Fill in the nature and extent of work; strike the word labor or the materials if not in the contract.
- (C) Identify contract(s) by number, description, and extent of work.
- (D) Describe improvements and location of the premises to exclude all others.
- (E) Name community, such as City of \_\_, Village of \_\_, or Unincorporated Area known as \_\_.
- (F) Amount shown should be the amount actually received and equal to the total adjusted contract.
- (G) If none, write "None". If required by Owner, Contractor shall furnish bond satisfactory to Owner for each exception.
- (H) If waiver is for a corporation, corporate name should be used, **corporate seal affixed and title of officer signing affidavit should be set forth**; if waiver is for a partnership, the partnership name should be used, partner should sign and designate as partner.



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## LABOR STANDARDS CERTIFICATION

Local Authority: City of Socorro  
Address: 111 School of Mines Road, Socorro, NM 87801  
Project Name: Manzanares Avenue Street and Drainage Improvements  
Project Number: LP10039

Contractor Name: Name of Contractor  
Contractor Address: Mailing Address, City, State Zip  
Total Contract Amount: [\$-Numerals]

By this letter, we certify that the New Mexico Public Works Minimum Wage Act, §13-4-11 NMSA 1978, has been complied with for all construction contracts in excess of \$60,000 for the referenced project. Weekly payroll records are available to the New Mexico Department of Labor – Labor and Industry Division, demonstrating compliance with the minimum wage rate determinations and wage scales were posted in a prominent location at the job site. The Contractor files the required Notification of Award (NOA) and a statement of Intent to Pay Prevailing Wages form as well as the Affidavit of Wages Paid form.

---

Name & Title (Contractor)

---

Signature

---

Date

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---

## CONSENT OF SURETY COMPANY TO FINAL PAYMENT

Project Name: Manzanares Avenue Street and Drainage Improvements

Location: Socorro, NM

A/E#: 01233

TO (Owner): City of Socorro

Address: 111 School of Mines Road

City/State/Zip: Socorro, NM 87801

Contractor: Name of Contractor

Contract Date: 1/1/1901

---

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the  
(here insert name and address of Surety Company)

[Name of Surety Company]

Surety Company,

[Address 1]

[Address 2]

on bond of (here insert name and address of Contractor)

Name of Contractor

Contractor,

Mailing Address

City, State Zip

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not  
relieve the Surety Company of any of its obligations to the City of Socorro, Owner,  
as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF,

the Surety Company has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Surety Company

\_\_\_\_\_  
Signature of Authorized Representative

Attest:  
(Seal)

\_\_\_\_\_  
Title

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# GEOTECHNICAL EVALUATION REPORT

## **MANZANERAS AVENUE RECONSTRUCTION**

Between California Street and I-25 Overpass  
Socorro, New Mexico

WT Job No. 3223JK005

### **PREPARED FOR:**

**DENNIS ENGINEERING COMPANY**

6020 Indian School Road NE  
Albuquerque, New Mexico 87110

February 14, 2023



Azupuri Kaba, PhD, PE, PMP  
Geotechnical Engineer

*for*   
Justin M. Heinecke, PE  
Senior Geotechnical Engineer



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**DENNIS ENGINEERING COMPANY**

Job No. 3223JK005

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**GEOTECHNICAL EVALUATION  
MANZANERAS AVENUE RECONSTRUCTION  
SOCORRO, NEW MEXICO  
JOB NO. 3223JK005**

**1.0 PURPOSE**

This report contains the results of our geotechnical evaluation for the proposed Manzaneras Avenue reconstruction project in Socorro, New Mexico. The purpose of these services is to provide information and recommendations regarding:

- Subsurface conditions
- Pavement sections
- Earthwork guidelines

Results of the field exploration, field tests, and laboratory testing program are presented in the Appendices.

**2.0 PROJECT DESCRIPTION**

Project information supplied by Steve Williams indicates that the proposed project consists of roadway reconstruction along Manzaneras Avenue between California Street and I-25 overpass in Socorro, New Mexico. We understand that the proposed reconstruction will include new curbs and gutters, sidewalks, and new pavement sections. Final site grading plans were not available at the time of this report. Should this information not be correct we should be notified.

**3.0 SCOPE OF SERVICES**

**3.1 Field Exploration**

Three (3) borings were drilled to depths ranging from 2 to 5 feet below existing site grade in the proposed pavement areas. Auger refusal was encountered in Boring 1. The borings were at the approximate locations shown on the attached Boring Location Diagram. A field log was prepared for each boring. These logs contain visual classifications of the

materials encountered during drilling as well as interpolation of the subsurface conditions between samples. Final logs, included in Appendix A, represent our interpretation of the field logs and may include modifications based on laboratory observations and tests of the field samples. The final logs describe the materials encountered, their thickness, and the locations where samples were obtained.

The Unified Soil Classification System was used to classify soils. The soil classification symbols appear on the boring logs and are briefly described in Appendix

### **3.2 Laboratory Analyses**

Laboratory analyses were performed on representative soil samples to aid in material classification and to estimate pertinent engineering properties of the on-site soils for preparation of this report. Testing was performed in general accordance with applicable standard test methods. The following tests were performed, and the results are presented in Appendix B.

- Field moisture content
- Gradation
- Liquid Limit and Plasticity Index

### **3.3 Analyses and Report**

This geotechnical engineering report includes a description of the project, a discussion of the field and laboratory testing programs, a discussion of the subsurface conditions, and design recommendations as appropriate to its purpose. The scope of services for this project does not include, either specifically or by implication, any environmental assessment of the site, discovery of underground storage tanks or other underground structures, or identification of contaminated or hazardous materials or conditions. If there is concern about the potential for such contamination, other studies should be undertaken. We are available to discuss the scope of such studies with you.

## 4.0 SITE CONDITIONS

### 4.1 Surface

Existing site development consisted of roadways through commercial and residential areas. Existing pavement sections along the alignment ranged from 2½ to 3 inches of asphalt concrete overlying 2 to 3 inches of aggregate base course. Generally, the pavements along the project site were in fair to poor condition with longitudinal and transverse cracking observed along with numerous patched potholes, alligator cracked areas, rutting, and dips. A photograph of a section of the site at the time of our exploration is provided below.



### 4.2 Subsurface

As presented on the Boring Logs, surface soils to the full depth of exploration consisted of Silty and Clayey SAND to Poorly-graded SAND with Silt and Gravel. Near surface soils are nil to low plasticity. Groundwater was not encountered at the time of exploration. A detailed description of the soils encountered can be found on the boring logs in Appendix A.

## 5.0 GEOTECHNICAL PROPERTIES & ANALYSIS

### 5.1 Laboratory Tests

Predominantly, the near-surface soils are granular, nil to low plasticity materials. These materials are considered as good quality materials for support of pavements.

### 5.2 Field Tests

The boring logs included in this report are indicators of subsurface conditions only at the specific location and date noted. Variations from the field conditions represented by the borings may become evident during construction. If variations appear, we should be contacted to re-evaluate our recommendations.

## 6.0 RECOMMENDATIONS

### 6.1 General

Recommendations contained in this report are based on our understanding of the project criteria described in Section 2.0 and the assumption that the soil and subsurface conditions are those disclosed by the explorations. Others may change the plans, final elevations, number and type of structures, foundation loads, and floor levels during design or construction. Substantially different subsurface conditions from those described herein may be encountered or become known. Any changes in the project criteria or subsurface conditions shall be brought to our attention in writing.

### 6.2 Pavements

At the time of preparing this report, specific information on the anticipated conditions, vehicle types, axle loads, subgrade and paving material characteristics were not available. We assumed the traffic would consist primarily of automobile traffic including passenger vehicles and small to medium size trucks. On this basis, a daily traffic value of 20 Equivalent 18-kip Single Axle Loads (ESAL) was estimated for the roadway. A resilient modulus ( $M_r$ ) of 7,300 pounds per square inch was estimated for the roadway based on an R-value of 35. A reliability value of 75 percent was assigned to the facility that corresponds to occasional interruption of traffic for pavement repairs. Based upon these

parameters, the resulting pavement sections according to the AASHTO procedure for a 20-year design life are:

Options	Asphalt Concrete Pavement (inches)	Base Course (inches)	Structural Number, SN
1	3.5	8	2.27
2	4.0	6	2.28

WT can provide final pavement sections once traffic data becomes available.

Base course and asphalt concrete should conform to New Mexico Department of Transportation (NMDOT) Standard Specifications for Road and Bridge Constructions. Bituminous surfacing should be constructed of dense-graded, central plant-mix, asphalt concrete of an SP-IV or SP-III mix design.

Material and compaction requirements should conform to recommendations presented under **EARTHWORK**. The gradient of paved surfaces should ensure positive drainage. Water should not pond in areas directly adjoining paved sections. The on-site subgrade soils may soften and lose stability if subjected to conditions that result in an increase in water content.

The "design life" (20 years) of a pavement is defined as the expected life at the end of which reconstruction of the pavement will need to occur. Normal maintenance, including crack sealing, slurry sealing, and/or chip sealing, should be performed during the life of the pavement.

## 7.0 EARTHWORK

### 7.1 General

The conclusions contained in this report for the proposed construction are contingent upon compliance with recommendations presented in this section. Any excavating, trenching, or disturbance that occurs after completion of the earthwork must be backfilled, compacted and tested in accordance with the recommendations contained herein. It is not reasonable to rely upon our conclusions and recommendations if any future unobserved and untested trenching, earthwork activities or backfilling occurs.

If any unobserved and untested earthwork, trenching or backfilling occurs, then the conclusions and recommendations in this report may not be relied on. We recommend that Western Technologies Inc. be retained to provide services during these phases of the project. Observation and testing of all foundation excavations should be performed prior to placement of reinforcing steel and concrete to confirm that foundations are constructed on satisfactory bearing materials.

## **7.2 Excavation**

On-site soils may pump or become unworkable at high water contents. Workability may be improved by scarifying and drying. Overexcavation of wet zones and replacement with granular materials may be necessary. The use of lightweight excavation and compaction equipment may be required to minimize subgrade pumping. It may be necessary to remove the existing subgrade to a depth of 24 inches below subgrade elevation and replace with a granular subbase material, and/or the use of a woven or non-woven separation fabric such as Marifi RS380i, 700X, or 140N, or approved equivalent, potentially in combination with a geogrid such as Tensar TX7 or BX1200. With very soft subgrade conditions, it may be necessary for a combination of removal and the use of a separation fabric.

## **7.3 Pavement Preparation**

The subgrade should be scarified, moistened as required, and recompactd for a minimum depth of 10 inches prior to placement of fill and pavement materials.

## **7.4 Materials**

Clean imported materials with low expansive potentials and maximum dimension of 6 inches or imported materials may be used as fill material for the following:

- Pavement areas
- Backfill

Frozen soils should not be used as fill or backfill.

Imported soils should conform to the following:

- Gradation (ASTM C136): percent finer by weight

6" .....	100
4" .....	85-100
¾" .....	70-100
No. 4 Sieve .....	50-100
No. 200 Sieve .....	30 (max)

- Maximum Plasticity Index ..... 5
- Maximum soluble sulfates (%) ..... 0.10

Base course should conform to NMDOT Specifications.

## 7.5 Placement and Compaction

- Place and compact fill in horizontal lifts, using equipment and procedures that will produce recommended water contents and densities throughout the lift.
- Uncompacted lift thickness should not exceed 10 inches.
- Materials should be compacted to the following:

### Minimum Percent Material Compaction (ASTM D1557)

- On-site or imported soil, reworked and fill ..... 95
- Base course below slabs-on-grade ..... 95
- Aggregate base below pavement ..... 96
- Nonstructural backfill ..... 90

Imported and on-site soils should be compacted within a water content range of 3 percent below to 3 percent above optimum.

## 7.6 Compliance

Recommendations for pavements supported on compacted fills or prepared subgrade depend upon compliance with the **EARTHWORK** recommendations. To assess compliance, observation and testing should be performed under the direction of a WT geotechnical engineer. Please contact us to provide these observation and testing services.

## 8.0 PLAN REVIEW

Foundation and grading plans were not available at the time of this report. WT should be retained to review the final plans to determine if they are consistent with the recommendations presented in this report. If the Client does not retain WT to review the plans and specifications, WT shall have no responsibility for the suitability of the plans for project application.

## 9.0 ADDITIONAL SERVICES

The recommendations provided in this report are based on the assumption that a sufficient schedule of tests and observations will be performed during construction to verify compliance. At a minimum, these tests and observations should be comprised of the following:

- Observations and testing during site preparation and earthwork,
- Observation of foundation excavations, and
- Consultation as may be required during construction.

Retaining the geotechnical engineer who developed your report to provide construction observation is the best way to verify compliance and to help you manage the risks associated with unanticipated conditions.

## 10.0 LIMITATIONS

This report has been prepared assuming the project criteria described in **2.0 PROJECT DESCRIPTION**. If changes in the project criteria occur, or if different subsurface conditions are encountered or become known, the conclusions and recommendations presented herein shall become invalid. In any such event, WT should be contacted in order to assess the effect that such variations may have on our conclusions and recommendations. If WT is not retained for the construction observation and testing services to determine compliance with this report, our professional responsibility is accordingly limited.

The recommendations presented are based entirely upon data derived from a limited number of samples obtained from widely spaced explorations. The attached logs are indicators of subsurface conditions only at the specific locations and times noted. This report assumes the



uniformity of the geology and soil structure between explorations, however variations can and often do exist. Whenever any deviation, difference, or change is encountered or becomes known, WT should be contacted.

This report is for the exclusive benefit of our client alone. There are no intended third-party beneficiaries of our contract with the client or this report, and nothing contained in the contract, or this report shall create any express or implied contractual or any other relationship with, or claim or cause of action for, any third party against WT.

This report is valid for the earlier of one year from the date of issuance, a change in circumstances, or discovered variations. After expiration, no person or entity shall rely on this report without the express written authorization of WT.

## **11.0 CLOSURE**

We prepared this report as an aid to the designers of the proposed project. The comments, statements, recommendations and conclusions set forth in this report reflect the opinions of the authors. These opinions are based upon data obtained at the location of the explorations, and from laboratory tests. Work on your project was performed in accordance with generally accepted standards and practices utilized by professionals providing similar services in this locality. No other warranty, express or implied, is made.



Approximate Boring Location



Proposed Road Reconstruction



NOT TO SCALE

Geotechnical  
Environmental  
Inspections  
Materials



**Western  
Technologies Inc.**  
The Quality People  
Since 1955

PROJECT:

MANZANERAS AVENUE RECONSTRUCTION

JOB NO.:

3223JJ005

## BORING LOCATION DIAGRAM

PLATE

1

<b>Allowable Soil Bearing Capacity</b>	The recommended maximum contact stress developed at the interface of the foundation element and the supporting material.
<b>Backfill</b>	A specified material placed and compacted in a confined area.
<b>Base Course</b>	A layer of specified aggregate material placed on a subgrade or subbase.
<b>Base Course Grade</b>	Top of base course.
<b>Bench</b>	A horizontal surface in a sloped deposit.
<b>Caisson/Drilled Shaft</b>	A concrete foundation element cast in a circular excavation which may have an enlarged base (or belled caisson).
<b>Concrete Slabs-On-Grade</b>	A concrete surface layer cast directly upon base course, subbase or subgrade.
<b>Crushed Rock Base Course</b>	A base course composed of crushed rock of a specified gradation.
<b>Differential Settlement</b>	Unequal settlement between or within foundation elements of a structure.
<b>Engineered Fill</b>	Specified soil or aggregate material placed and compacted to specified density and/or moisture conditions under observations of a representative of a soil engineer.
<b>Existing Fill</b>	Materials deposited through the action of man prior to exploration of the site.
<b>Existing Grade</b>	The ground surface at the time of field exploration.
<b>Expansive Potential</b>	The potential of a soil to expand (increase in volume) due to absorption of moisture.
<b>Fill</b>	Materials deposited by the actions of man.
<b>Finished Grade</b>	The final grade created as a part of the project.
<b>Gravel Base Course</b>	A base course composed of naturally occurring gravel with a specified gradation.
<b>Heave</b>	Upward movement.
<b>Native Grade</b>	The naturally occurring ground surface.
<b>Native Soil</b>	Naturally occurring on-site soil.
<b>Rock</b>	A natural aggregate of mineral grains connected by strong and permanent cohesive forces. Usually requires drilling, wedging, blasting or other methods of extraordinary force for excavation.
<b>Sand and Gravel Base Course</b>	A base course of sand and gravel of a specified gradation.
<b>Sand Base Course</b>	A base course composed primarily of sand of a specified gradation.
<b>Scarify</b>	To mechanically loosen soil or break down existing soil structure.
<b>Settlement</b>	Downward movement.
<b>Soil</b>	Any unconsolidated material composed of discrete solid particles, derived from the physical and/or chemical disintegration of vegetable or mineral matter, which can be separated by gentle mechanical means such as agitation in water.
<b>Strip</b>	To remove from present location.
<b>Subbase</b>	A layer of specified material placed to form a layer between the subgrade and base course.
<b>Subbase Grade</b>	Top of subbase.
<b>Subgrade</b>	Prepared native soil surface.





**COARSE-GRAINED SOILS**  
LESS THAN 50% FINES

GROUP SYMBOLS	DESCRIPTION	MAJOR DIVISIONS
<b>GW</b>	WELL-GRADED GRAVEL OR WELL-GRADED GRAVEL WITH SAND, LESS THAN 5% FINES	GRAVELS  MORE THAN HALF OF COARSE FRACTION IS LARGER THAN NO. 4 SIEVE SIZE
<b>GP</b>	POORLY-GRADED GRAVEL OR POORLY-GRADED GRAVEL WITH SAND, LESS THAN 5% FINES	
<b>GM</b>	SILTY GRAVEL OR SILTY GRAVEL WITH SAND, MORE THAN 12% FINES	
<b>GC</b>	CLAYEY GRAVEL OR CLAYEY GRAVEL WITH SAND, MORE THAN 12% FINES	
<b>SW</b>	WELL-GRADED SAND OR WELL-GRADED SAND WITH GRAVEL, LESS THAN 5% FINES	SANDS  MORE THAN HALF OF COARSE FRACTION IS SMALLER THAN NO. 4 SIEVE SIZE
<b>SP</b>	POORLY-GRADED SAND OR POORLY-GRADED SAND WITH GRAVEL, LESS THAN 5% FINES	
<b>SM</b>	SILTY SAND OR SILTY SAND WITH GRAVEL, MORE THAN 12% FINES	
<b>SC</b>	CLAYEY SAND OR CLAYEY SAND WITH GRAVEL, MORE THAN 12% FINES	

**NOTE:** Coarse-grained soils receive dual symbols if they contain 5% to 12% fines (e.g., SW-SM, GP-GC).

**FINE-GRAINED SOILS**  
MORE THAN 50% FINES

GROUP SYMBOLS	DESCRIPTION	MAJOR DIVISIONS
<b>ML</b>	SILT, SILT WITH SAND OR GRAVEL, SANDY SILT, OR GRAVELLY SILT	SILTS AND CLAYS  LIQUID LIMIT LESS THAN 50
<b>CL</b>	LEAN CLAY OF LOW TO MEDIUM PLASTICITY, SANDY CLAY, OR GRAVELLY CLAY	
<b>OL</b>	ORGANIC SILT OR ORGANIC CLAY OF LOW TO MEDIUM PLASTICITY	
<b>MH</b>	ELASTIC SILT, SANDY ELASTIC SILT, OR GRAVELLY ELASTIC SILT	SILTS AND CLAYS  LIQUID LIMIT MORE THAN 50
<b>CH</b>	FAT CLAY OF HIGH PLASTICITY, SANDY FAT CLAY, OR GRAVELLY FAT CLAY	
<b>OH</b>	ORGANIC SILT OR ORGANIC CLAY OF HIGH PLASTICITY	
<b>PT</b>	PEAT AND OTHER HIGHLY ORGANIC SOILS	HIGHLY ORGANIC SOILS

**NOTE:** Fine-grained soils may receive dual classification based upon plasticity characteristics (e.g. CL-ML).

**SOIL SIZES**

COMPONENT	SIZE RANGE
BOULDERS	Above 12 in.
COBBLES	3 in. – 12 in.
GRAVEL	No. 4 – 3 in.
Coarse	¾ in. – 3 in.
Fine	No. 4 – ¾ in.
SAND	No. 200 – No. 4
Coarse	No. 10 – No. 4
Medium	No. 40 – No. 10
Fine	No. 200 – No. 40
Fines (Silt or Clay)	Below No. 200

**NOTE:** Only sizes smaller than three inches are used to classify soils

**CONSISTENCY**

CLAYS & SILTS	BLOWS PER FOOT
VERY SOFT	0 – 2
SOFT	3 – 4
FIRM	5 – 8
STIFF	9 – 15
VERY STIFF	16 – 30
HARD	OVER 30

**RELATIVE DENSITY**

SANDS & GRAVELS	BLOWS PER FOOT
VERY LOOSE	0 – 4
LOOSE	5 – 10
MEDIUM DENSE	11 – 30
DENSE	31 – 50
VERY DENSE	OVER 50

**NOTE:** Number of blows using 140-pound hammer falling 30 inches to drive a 2-inch-OD (1½-inch ID) split-barrel sampler (ASTM D1586).

**PLASTICITY OF FINE GRAINED SOILS**

PLASTICITY INDEX	TERM
0	NON-PLASTIC
1 – 7	LOW
8 – 20	MEDIUM
Over 20	HIGH

**DEFINITION OF WATER CONTENT**

DRY
SLIGHTLY DAMP
DAMP
MOIST
WET
SATURATED

The number shown in "**BORING NO.**" refers to the approximate location of the same number indicated on the "Boring Location Diagram" as positioned in the field by pacing or measurement from property lines and/or existing features, or through the use of Global Positioning System (GPS) devices. The accuracy of GPS devices is somewhat variable.

"**DRILLING TYPE**" refers to the exploratory equipment used in the boring wherein **HSA = hollow stem auger**, and the dimension presented is the outside diameter of the HSA used.

"**N**" in "**BLOW COUNTS**" refers to a 2-inch outside diameter split-barrel sampler driven into the ground with a 140 pound drop-hammer dropped 30 inches repeatedly until a penetration of 18 inches is achieved or until refusal. The number of blows, or "blow count", of the hammer is recorded for each of three 6-inch increments totaling 18 inches. The number of blows required for advancing the sampler for the last 12 inches (2<sup>nd</sup> and 3<sup>rd</sup> increments) is defined as the Standard Penetration Test (SPT) "**N**"-Value. Refusal to penetration is considered more than 50 blows per 6 inches. (Ref. ASTM D1586).

"**R**" in "**BLOW COUNTS**" refers to a 3-inch outside diameter ring-lined split barrel sampler driven into the ground with a 140 pound drop-hammer dropped 30 inches repeatedly until a penetration of 12 inch is achieved or until refusal. The number of blows required to advance the sampler 12 inches is defined as the "**R**" blow count. The "**R**" blow count requires an engineered conversion to an equivalent SPT N-Value. Refusal to penetration is considered more than 50 blows per foot. (Ref. ASTM D3550).

"**CS**" in "**BLOWS/FT.**" refers to a 2½-in. outside diameter California style split-barrel sampler, lined with brass sleeves, driven into the ground with a 140-pound hammer dropped 30 inches repeatedly until a penetration of 18 inches is achieved or until refusal. The number of blows of the hammer is recorded for each of the three 6-inch increments totaling 18 inches. The number of blows required for advancing the sampler for the last 12 inches (2<sup>nd</sup> and 3<sup>rd</sup> increments) is defined as the "**CS**" blow count. The "**CS**" blow count requires an engineered conversion to an equivalent SPT N-Value. Refusal to penetration is considered more than 50 blows for a 6-inch increment. (Ref. ASTM D 3550)

"**SAMPLE TYPE**" refers to the form of sample recovery, in which **N** = Split-barrel sample, **R** = Ring-lined sample, "**CS**" = California style split-barrel sample, **G** = Grab sample, **B** = Bucket sample, **C** = Core sample (ex. diamond bit rock coring).

"**DRY DENSITY (LBS/CU FT)**" refers to the laboratory-determined dry density in pounds per cubic foot. The symbol "**NR**" indicates that no sample was recovered.

"**WATER (MOISTURE) CONTENT**" (% of Dry Wt.) refers to the laboratory-determined water content in percent using the standard test method ASTM D2216.

"**USCS**" refers to the "Unified Soil Classification System" Group Symbol for the soil type as defined by ASTM D2487 and D2488. The soils were classified visually in the field, and where appropriate, classifications were modified by visual examination of samples in the laboratory and/or by appropriate tests.


These notes and boring logs are intended for use in conjunction with the purposes of our services defined in the text. Boring log data should not be construed as part of the construction plans nor as defining construction conditions.

Boring logs depict our interpretations of subsurface conditions at the locations and on the date(s) noted. Variations in subsurface conditions and characteristics may occur between borings. Groundwater levels may fluctuate due to seasonal variations and other factors.


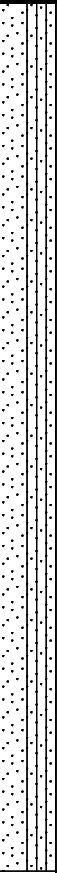

The stratification lines shown on the boring logs represent our interpretation of the approximate boundary between soil or rock types based upon visual field classification at the boring location. The transition between materials is approximate and may be more or less gradual than indicated.



THIS SUMMARY APPLIES ONLY AT THIS LOCATION AND AT THE TIME OF LOGGING. CONDITIONS MAY DIFFER AT OTHER LOCATIONS AND MAY CHANGE AT THIS LOCATION WITH TIME. DATA PRESENTED IS A SIMPLIFICATION.

DATE DRILLED: 1-23-23			BORING NO. 1			EQUIPMENT TYPE: CME-75		
LOCATION: See Location Diagram						DRILLING TYPE: 7" H.S.A		
ELEVATION: Not Determined						FIELD ENGINEER: S. O'Herron-Alex		
MOISTURE CONTENT (% OF DRY WT.)	DRY DENSITY (LBS/CU FT)	SAMPLE TYPE	SAMPLE	BLOW COUNTS	DEPTH (FEET)	USCS	GRAPHIC	SOIL DESCRIPTION
7.7		G				SM		3-Inches of Asphalt over 2-Inches of Basecourse
								Silty SAND with gravel; with cobbles, dark brown, moist
								Auger Refusal at 2-feet on cobbles
N- STANDARD PENETRATION TEST R- RING SAMPLE NR- NO SAMPLE RECOVERY G- GRAB SAMPLE B- BUCKET SAMPLE						NOTES: Groundwater Not Encountered		
<div>Geotechnical Environmental Inspections Materials</div> <div><b>Western Technologies Inc.</b> The Quality People Since 1955</div>						PROJECT: MANZANERAS AVE RECONSTRUCTION JOB NO.: 322JK005		PLATE <b>A--4</b>
						<b>BORING LOG</b>		

THIS SUMMARY APPLIES ONLY AT THIS LOCATION AND AT THE TIME OF LOGGING. CONDITIONS MAY DIFFER AT OTHER LOCATIONS AND MAY CHANGE AT THIS LOCATION WITH TIME. DATA PRESENTED IS A SIMPLIFICATION.

DATE DRILLED: 1-23-23			BORING NO. 2			EQUIPMENT TYPE: CME-75			
LOCATION: See Location Diagram						DRILLING TYPE: 7" H.S.A			
ELEVATION: Not Determined						FIELD ENGINEER: S. O'Herron-Alex			
MOISTURE CONTENT (% OF DRY WT.)	DRY DENSITY (LBS/CU FT)	SAMPLE TYPE	SAMPLE	BLOW COUNTS	DEPTH (FEET)	USCS	GRAPHIC	SOIL DESCRIPTION	
5.9		G			5	SP-SM		2.5-Inches of Asphalt over 3-Inches of Basecourse	
								Poorly Graded SAND with Silt and gravel; with cobbles, dark brown, moist	
								Boring Terminated at 5-feet	
N- STANDARD PENETRATION TEST R- RING SAMPLE NR- NO SAMPLE RECOVERY G- GRAB SAMPLE B- BUCKET SAMPLE							NOTES: Groundwater Not Encountered		
<div>Geotechnical Environmental Inspections Materials</div> <div><b>Western Technologies Inc.</b> The Quality People Since 1955</div>							PROJECT: MANZANERAS AVE RECONSTRUCTION JOB NO.: 322JK005		PLATE <b>A--5</b>
							BORING LOG		


THIS SUMMARY APPLIES ONLY AT THIS LOCATION AND AT THE TIME OF LOGGING. CONDITIONS MAY DIFFER AT OTHER LOCATIONS AND MAY CHANGE AT THIS LOCATION WITH TIME. DATA PRESENTED IS A SIMPLIFICATION.

DATE DRILLED: 1-23-23			BORING NO. 3			EQUIPMENT TYPE: CME-75			
LOCATION: See Location Diagram						DRILLING TYPE: 7" H.S.A			
ELEVATION: Not Determined						FIELD ENGINEER: S. O'Herron-Alex			
MOISTURE CONTENT (% OF DRY WT.)	DRY DENSITY (LBS/CU FT)	SAMPLE TYPE	SAMPLE	BLOW COUNTS	DEPTH (FEET)	USCS	GRAPHIC	SOIL DESCRIPTION	
11.4		G				SC		2.5-Inches of Asphalt over 3-Inches of Basecourse	
								Clayey SAND with gravel and cobbles; dark brown, moist	
								Boring Terminated at 5-feet	
N- STANDARD PENETRATION TEST R- RING SAMPLE NR- NO SAMPLE RECOVERY G- GRAB SAMPLE B- BUCKET SAMPLE							NOTES: Groundwater Not Encountered		
<div>Geotechnical Environmental Inspections Materials</div> <div><b>Western Technologies Inc.</b> The Quality People Since 1955</div>							PROJECT: MANZANERAS AVE RECONSTRUCTION JOB NO.: 322JK005		PLATE <b>A--6</b>
							<b>BORING LOG</b>		



SOIL PROPERTIES																								
Bore No.	Depth (ft.)	Soil Class	Particle Size Distribution - (%) Passing by Weight																			Plasticity		Remarks
			6"	3"	2"	1½"	1¼"	1"	¾"	½"	3/8"	¼"	#4	#8	#10	#16	#30	#40	#50	#100	#200	L L	P I	
1	0-2	SM	-	-	-	-	-	100	98	91	89	-	79	70	68	60	49	44	39	28	19		NP	
2	0-5	SP-SM	-	-	-	-	-	100	84	72	67	-	59	53	51	45	37	32	27	17	11		NP	
3	0-5	SC	-	-	-	-	-	100	98	96	93	-	86	81	79	73	65	62	58	47	34	29	15	

Note: NP = Non-Plastic

<p><i>Geotechnical Environmental Inspections Materials</i></p>  <p><b>Western Technologies Inc.</b> The Quality People Since 1955</p>	<p>PROJECT: <b>Manzaneras Ave Reconstruction</b></p> <p>JOB NO.: <b>3223JK005</b></p>	<p>PLATE</p>
	<p><b>SOIL PROPERTIES</b></p>	<p><b>B-1</b></p>



STATE OF NEW MEXICO  
NEW MEXICO DEPARTMENT OF  
WORKFORCE SOLUTIONS  
Labor Relations Division  
121 Tijeras Ave NE, Suite 3000  
Albuquerque, NM 87102  
[www.dws.state.nm.us](http://www.dws.state.nm.us)

## PUBLIC WORKS PROJECT REQUIREMENTS

As a participant in a Public Works project valued at more than \$60,000 in the State of New Mexico, the following list addresses many of the responsibilities that are defined by statute or regulation to each project stakeholder.

### Contracting Agency

- Ensure that all Contractors wishing to bid on a Public Works project when the project is \$60,000 or more are actively registered with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.
- Please submit Notice of Award (NOA) and Subcontractor List(s) to the PWAA website promptly after the project is awarded.
- Please update the Subcontractor List(s) on the PWAA website whenever changes occur.
- All Sub-Contractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.
- Ninety days after project completion please go into the PWAA system and close the project. Only Contracting Agencies are allowed to close the project. Agents or Contractors are not allowed to close projects.

### General Contractor

- Provide a complete Subcontractor List and Statements of Intent (SOI) to Pay Prevailing Wages for all Contractors, regardless of amount of work, to the Contracting Agency within 3 (three) days of award.
- Ensure that all Subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Submit weekly certified payroll bi-weekly to the Contracting Agency.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- Confirm the Wage Rate poster, provided in PWAA, is displayed at the job site in an easily accessible place.
- Make sure, when a project has been completed, the Affidavits of Wages Paid (AWP) are sent to the Contracting Agency.



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- All Subcontractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.

## **Subcontractor**

- Ensure that all Subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Submit weekly certified payroll bi-weekly to the General Contractor(s).
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- All Subcontractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.

## **Additional Information**

Reference material and forms may be found at New Mexico Department of Workforce Solutions Public Works web pages at: <https://www.dws.state.nm.us/Labor-Relations/Labor-Information/Public-Works>.

## **CONTACT INFORMATION**

Contact the Labor Relations Division for any questions relating to Public Works projects by email at [public.works@dws.nm.gov](mailto:public.works@dws.nm.gov) or call (505) 841-4400.

**LABOR RELATIONS DIVISION**

401 Broadway NE  
Albuquerque, NM 87102  
Phone: 505-841-4400  
Fax: 505-841-4424

226 South Alameda Blvd  
Las Cruces, NM 88005  
Phone: 575-524-6195  
Fax: 575-524-6194

**WWW.DWS.STATE.NM.US****Wage Decision Approval Summary**

1) Project Title: Manzaneros Avenue Improvements  
Requested Date: 10/31/2023  
Approved Date: 11/01/2023  
Approved Wage Decision Number: SO-23-2955-A

**Wage Decision Expiration Date for Bids: 02/29/2024**

2) Physical Location of Jobsite for Project:  
Job Site Address: 111 School of The Mines Rd  
Job Site City: Socorro  
Job Site County: Socorro

3) Contracting Agency Name (Department or Bureau): City of Socorro  
Contracting Agency Contact's Name: Joseph Santillanes  
Contracting Agency Contact's Phone: (575) 835-0240 Ext.

4) Estimated Contract Award Date: 12/31/2023

5) Estimated total project cost: \$490,000.00  
a. Are any federal funds involved?: No  
b. Does this project involve a building?: No  
c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No  
d. Are there any other Public Works Wage Decisions related to this project?: No  
e. What is the ultimate purpose or functional use of the construction once it is completed?:

Reconstruction of Manzaneros Avenue with new curb and gutter, sidewalks, ADA access ramps, subgrade preparation, base course and asphalt surfacing to the extent funds are available.

**6) Classifications of Construction:**

<b>Classification Type and Cost Total</b>	<b>Description</b>
<b>Highway/Utilities (A)</b> <b>Cost: \$490,000.00</b>	Reconstruction of Manzaneros Avenue with new curb and gutter, sidewalks, ADA access ramps, subgrade preparation, base course and asphalt surfacing to the extent funds are available.

## TYPE "A" – STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING

Effective January 1, 2023

Trade Classification	Base Rate	Fringe Rate
Bricklayer/Block layer/Stonemason	24.46	8.81
Carpenter/Lather	27.73	12.14
Carpenter- Los Alamos County	33.18	13.58
Cement Mason	18.24	7.61
Drywall Finisher/Taper	25.82	8.40
Glazier		
Glazier/Fabricator	21.25	6.70
Delivery Driver	12.00	6.70
Ironworker	28.05	18.30
Painter- Commercial	18.25	8.50
Paper Hanger	18.25	8.50
Plumber/Pipefitter	38.63	14.55
<b>Electricians- Outside Classifications: Zone 1</b>		
Ground man	25.43	11.76
Equipment Operator	36.48	16.09
Lineman	46.09	18.52
Journeyman technician	42.92	17.73
Cable Splicer	47.22	18.81
<b>Electricians-Outside Classifications: Zone 2</b>		
Ground man	25.43	11.76
Equipment Operator	36.48	16.09
Lineman	46.09	18.52
Journeyman technician	42.92	17.73
Cable Splicer	47.22	18.81
<b>Electricians-Outside Classifications: Los Alamos county</b>		
Ground man	26.15	11.78
Equipment Operator	37.54	16.13

Lineman	47.29	18.82
Journeyman technician	44.15	18.04
Cable Splicer	51.93	19.98
<b>Laborers</b>		
Group I – unskilled	15.99	7.11
Group II – semiskilled	15.99	7.11
Group III – skilled	17.49	7.11
Group IV – specialty	17.99	7.11
<b>Operators</b>		
Group I	21.35	6.74
Group II	22.38	6.74
Group III	22.49	6.74
Group IV	22.62	6.74
Group V	22.73	6.74
Group VI	22.94	6.74
Group VII	23.12	6.74
Group VIII	23.45	6.74
Group IX	31.96	6.74
Group X	35.65	6.74
<b>Soft Floor Layers</b>	21.00	8.45
<b>Truck Drivers</b>		
Group I-IX	19.00	9.10

**NOTE: All contractors are required to pay SUBSISTENCE, ZONE AND INCENTIVE PAY according to the particular trade. Details are located in a PDF attachment at [WWW.DWS.STATE.NM.US](http://WWW.DWS.STATE.NM.US). Search Labor Relations/Labor Information/Public Works/Prevailing Wage Rates.**

For more information about the Subsistence, Zone, and Incentive Pay rates, or to file a wage claim, contact the Labor Relations Division at (505) 841-4400 or visit us online at [www.dws.state.nm.us](http://www.dws.state.nm.us).

**LABOR ENFORCEMENT FUND**  
**NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS**  
**LABOR RELATIONS DIVISION**  
**APPLICATION FOR PUBLIC WORKS**  
**CONTRACTOR REGISTRATION**

**All applications must be accompanied by \$400 payable to the "LABOR ENFORCEMENT FUND"**

**Do Not Send Cash**

Send to: **Labor Enforcement Fund**  
**PO Box 27679**  
**Albuquerque, NM 87125-7679**

1. \_\_\_\_\_  
Contractor/Subcontractor – Company Trade Name  
  
\_\_\_\_\_  
Mailing Address                      City                      State                      Zip Code  
  
\_\_\_\_\_  
Area Code / Telephone Number  
  
\_\_\_\_\_  
E-Mail Address or Fax Number
2. \_\_\_\_\_  
Printed Name of First Qualifying Party (Owner of Company)
3. Type of Business      ☐ Individual/Sole Proprietor      ☐ Partnership  
   ☐ Corporation                      ☐ Other \_\_\_\_\_
4. **INCOMPLETE APPLICATIONS WILL BE RETURNED TO SENDER**

**APPLICANT STATEMENT**

As the responsible applicant-contractor, I understand:

- the application is subject to verification and that I agree to provide any additional documentation as requested by the Labor Relations Division director.
- failure to provide full and timely disclosure of any required information or documentation may result in the denial of this application for registration.
- **that payment in the exact amount of Four Hundred Dollars USD (\$400.00) is due with this application.**
- that registration is for two years from the date notice of registration is posted on the Department of Workforce Solutions website ([www.dws.state.nm.us](http://www.dws.state.nm.us)).
- that I am submitting this application for the purpose of a legal transaction with the State of New Mexico Department of Workforce Solutions.
- that failure to send this application and payment to the address shown above will result in delayed or denied registration.
- that it is my (the contractor's) responsibility to ensure that my registration is current.

I certify, under penalty of perjury, that the information contained in this application for registration is accurate, true, and complete to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

SUSANA MARTINEZ  
GOVERNOR



CELINA BUSSEY  
SECRETARY

JOHN SANCHEZ  
LT. GOVERNOR

STATE OF NEW MEXICO  
DEPARTMENT OF WORKFORCE SOLUTIONS  
Public Works Bureau  
625 Silver Ave SW, Suite 410  
Albuquerque, NM 87102  
(505) 222-4669 / FAX (505) 222-4780

GEORGE MARQUEZ  
DIRECTOR

## **NOTICE**

### **Public Works Apprenticeship and Training Act**

Statute 13-4D-4.B states:

"Public works construction projects, except for street, highway, bridge, road, utility or maintenance contracts with employers who elect not to participate in training, shall not be constructed unless an employer agrees to make contributions to approved apprentice and training programs in New Mexico in which the employer is a participant or to the public works apprentice and training fund administered by the public works bureau of the labor and industrial division of the labor department. Contributions shall be made in the same manner and in the same amount as apprentice and training contributions required pursuant to wage rate determinations made by the director."

For a copy of the above-mentioned act, please contact our office at (505) 841-4403.

For contractors that are not participants in an approved apprenticeship program, submit Apprenticeship & Training Contribution Compliance Statement and Payment to:

NMDWS  
Public Works Bureau  
PO Box 27428  
Albuquerque, NM 87125-7428



# *APPRENTICESHIP CONTRIBUTION PROGRAM*

The following are easy reminders regarding this program:

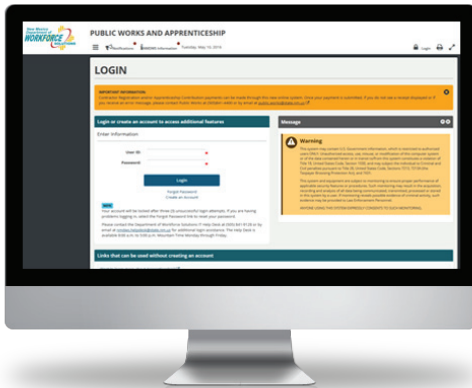
1. For "B", "C", & "H" Projects: Whenever you have any workers on the job (even if you are not using apprentices), you are required to pay into the Apprenticeship Training Program as outlined in the Apprenticeship & Training Act. This applies to all contractors, subcontractors, 2<sup>nd</sup> tiers, etc. Your wage rates will show which jobs have apprenticeship contributions.
2. If you have apprentices on the job, they must have a journeyman working with them. The ratio must be one-to-one.
3. The Apprenticeship Contribution is not considered part of the fringe benefits. It is totally separate.
4. The Apprenticeship Compliance Statement from our office (or our website) is the only form you may use. Do NOT modify our form or generate your own.
5. As noted on the Apprenticeship Compliance Statement, these forms are due on the 15<sup>th</sup> of every month for the length of the project. If no work was done for that month, send us a copy letting us know there was no work done.
6. Submit Apprenticeship Compliance Statements with payments to: NMDWS, Public Works Bureau, PO Box 27428, Albuquerque, NM 87125-7428

## PUBLIC WORKS & APPRENTICESHIP APPLICATION

The Public Works and Apprenticeship Application (PWAA) is the online database exchange between the New Mexico Department Workforce Solutions, apprenticeship programs, contractors, and contracting agencies. The PWAA is an interactive tool providing many self-service activities including: registering apprentices; issuing apprentice certifications; entering wage decision requests; completing public works paperwork; making apprenticeship contributions; and contractor registration/renewals.

If you have questions about account creation, system features, or changes in processes, contractors and contracting agencies are encouraged to contact the New Mexico Department of Workforce Solutions Public Works Office at (505) 841-4400 or via email at [public.works@state.nm.us](mailto:public.works@state.nm.us).

For questions regarding apprenticeship, please contact the New Mexico Apprenticeship Office at (505) 841-8565 or via email at [apprenticeship.info@state.nm.us](mailto:apprenticeship.info@state.nm.us).



[www.dws.state.nm.us/pwaa](http://www.dws.state.nm.us/pwaa)

## CONTACT INFORMATION

Labor Relations Division

Wage & Hour and Public Works Offices

Offices are open Monday-Friday, 8am-5pm

### Albuquerque Office

121 Tijeras NE, Suite 3000

Albuquerque, NM 87102

**Phone: (505) 841-4400**

**Fax: (505) 841-4424**

### Las Cruces Office

226 S. Alameda Blvd

Las Cruces, NM 88005

**Phone: (575) 524-6195**

**Fax: (575) 524-6194**

### Santa Fe Office

1596 Pacheco Street, Suite 103

Santa Fe, NM 87505

**Phone: (505) 827-6817**

**Fax: (505) 827-9676**

[www.dws.state.nm.us/public-works](http://www.dws.state.nm.us/public-works)

[www.dws.state.nm.us/pwaa](http://www.dws.state.nm.us/pwaa)

### CONNECT WITH US!



**Twitter:** [www.twitter.com/nmdws](https://twitter.com/nmdws)



**YouTube:** [www.youtube.com/nmdws](https://www.youtube.com/nmdws)



**Instagram:** [www.instagram.com/nmdws](https://www.instagram.com/nmdws)

Revised 7/2016



## New Mexico Public Works



[WWW.DWS.STATE.NM.US/PUBLIC-WORKS](http://WWW.DWS.STATE.NM.US/PUBLIC-WORKS)

## PUBLIC WORKS MINIMUM WAGE ACT

The New Mexico Public Works Minimum Wage Act applies to employers and employees working on state and locally funded public works construction projects. Information presented here is not an official interpretation of the Act, but is intended to serve as a general guide to the law.

Find additional information and rules and regulations on the Public Works Minimum Wage Act at [www.dws.state.nm.us/Public-Works](http://www.dws.state.nm.us/Public-Works)

## WHEN DOES THE ACT APPLY?

Any state or locally funded construction project totaling more than \$60,000 is covered by the Act. The Labor Relations Division (LRD) of the New Mexico Department of Workforce Solutions (NMDWS) works to ensure that every employee on the project is paid the correct wage rate.

## HOW ARE WAGE RATES SET?

The Labor Relations Division sets the minimum wage rates for all Public Works projects each year. Wage rates include a base rate of pay, a fringe benefit rate, and apprenticeship training contributions. Specific information regarding wage rates can be found at [www.dws.state.nm.us](http://www.dws.state.nm.us).

## WHAT IS A WAGE DECISION?

A wage decision is the wage rate for a specific public works construction project. The person putting together project bid documents requests a wage decision by submitting a request that describes the scope of work. The type of work determines the type of rates issued. The four types of projects are:

TYPE **A** Street, highway, utility, and light engineering construction

TYPE **B** General building

TYPE **C** Residential

TYPE **H** Heavy engineering construction

To request a wage decision or obtain additional information about wage decisions, create an account and login to the Public Works and Apprenticeship Application at [www.dws.state.nm.us/PWAA](http://www.dws.state.nm.us/PWAA).

## PUBLIC WORKS PROJECT CHECKLIST



A **Notice of Award** is due from the contracting agency identifying the general contractor before work starts.



A subcontractor list is due from the contracting agency/general contractor listing all subcontractors before work starts.



A **Statement of Intent to Pay Prevailing Wages** is due from each contractor, subcontractor, and each tier contractor before work starts.



An **Apprenticeship Contribution or Compliance Statement** (for all except Type A projects) is due by the 15th of each month (for the previous month's work) from all contractors, subcontractors, and each tier of contractors.



A wage rate poster must be displayed in an easily accessible place at the job site to show all employees what their minimum rates of pay are.



An **Affidavit of Wages Paid** must be submitted after a contractor finishes work but before the final payment is made.



**STATEMENT OF INTENT TO PAY PREVAILING WAGES****To Be Completed Before Construction Starts****ALL FIELDS ARE REQUIRED****FORM MUST BE SENT TO THE CONTRACTING AGENCY WITHIN 3 DAY OF THE AWARD**

<b>General Contractor Information</b>		
Company Name:		
Address:		
City :	State:	Zip:
Phone:	Fax:	E-Mail:
FEIN #		
Estimated Start Date:		<b>State Wage Decision Number:</b>
Project Title:		Project Physical Address:
<b>Total Contract Amount:</b>		Estimated Completion Date:
Print Name:		General Contractor Signature:
<b>Sub Contractor Information</b>		Start date on this project:
Sub Contract Amount:		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
FEIN #		
Print Name:		Sub Contractor Signature:
<b>2<sup>nd</sup>, 3<sup>rd</sup>, etc. Tier Sub-Contractor Information</b>		Start date on this project:
Contract Amount:		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
FEIN#		
Print Name:		Tier Signature:

I hereby certify that the above information is correct and that all workers I employ on this public works project will be paid no less than the Prevailing Wage Rate(s) as determined by the Department of Workforce Solutions, Labor Relations Division for this project as identified by the State Wage Decision Number. I understand that contractors who violate Prevailing Wage Laws (i.e., incorrect job classification, improper payment of prevailing wages, and/or overtime, etc.), are subject to debarment procedures and shall be required to pay any back wages due to workers. (Ref. Labor Relations Division, Public Works Minimum Wage Act Policy Manual (11.1.2 NMAC) & Public Works Minimum Wage Act (13-4-11 through 13-4-18, NMSA 1978).

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Contractor's Signature

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Date

(Revised 11/21/2017)

## **INSTRUCTIONS FOR COMPLETING STATEMENT OF INTENT TO PAY PREVAILING WAGES**

### **GENERAL CONTRACTOR**

1. Enter general contractor information and provide signature.
2. Enter State Wage Decision Number as listed in bid documents. (Example: BE-13-0123 B)
3. Enter project title - listed in bid documents.
4. Enter project physical address - exact location of project (job site).
5. Enter estimated start & completion dates of project.
6. Enter general contractor's contract amount.
7. All Statements must be sent to the Contracting Agency.

### **SUB CONTRACTOR**

1. Enter general contractor information, but general contractor signature is not needed.
2. Enter sub contractor information as indicated and provide signature.
3. Enter sub contractor contract amount.

NOTE: A separate signed form is needed for each contractor.

### **2ND TIER SUB CONTRACTOR**

1. Enter general contractor information, but general contractor signature is not needed.
2. Enter sub contractor information; subcontractor signature not needed.
3. Enter 2nd tier sub information and provide signature.
4. Enter 2nd tier contractors contract amount.

### **3RD TIER AND HIGHER CONTRACTOR**

1. Attach a copy of this completed form & list the 3rd tier contractor information under the 2nd tier

**AFFIDAVIT OF WAGES PAID**  
**To Be Completed After Construction Is Complete**  
**ALL FIELDS ARE REQUIRED**  
**FORM MUST BE SENT TO THE CONTRACTING AGENCY**

<b>General Contractor Information</b>		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
Estimated Completion Date:	<b>State Wage Decision Number:</b>	
Project Title:	Project Physical Address:	
Print Name:	General Contractor Signature:	
		Date you completed work on this project:
<b>Sub Contractor Information</b>		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
Print Name:	Sub Contractor Signature:	
		Date you completed work on this project:
<b>2<sup>nd</sup>, 3<sup>rd</sup>, etc. Tier Sub Contractor Information</b>		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
Print Name:	Tier Signature:	

I hereby certify that the above information is correct and that all workers I employ on this public works project were paid no less than the Prevailing Wage Rate(s) as determined by the Department of Workforce Solutions, Labor Relations Division for this project as identified by the State Wage Decision Number. I understand that contractors who violate Prevailing Wage Laws (i.e., incorrect job classification, improper payment of prevailing wages, and/or overtime, etc.), are subject to debarment procedures and shall be required to pay any back wages due to workers. (Ref. Labor Relations Division Public Works Minimum Wage Act Policy Manual (11.1.2 NMAC) & Public Works Minimum Wage Act (13-4-11 through 13-4-18, NMSA 78)).

Contractor's Signature                      Date

(Revised 08/23/13)

# **INSTRUCTIONS FOR COMPLETING AFFIDAVIT OF WAGES PAID**

## **GENERAL CONTRACTOR**

1. Enter general contractor information and provide signature.
2. Enter State Wage Decision Number as listed in bid documents. (Example: BE 13-0123 B)
3. Enter project title - listed in bid documents.
4. Enter project physical address - exact location of project (job site).
5. Enter completion date of project.
6. All Affidavits' must be sent to the Contracting Agency.

## **SUB CONTRACTOR**

1. Enter general contractor information, but general contractor signature is not needed.
2. Enter sub contractor information as indicated and provide signature.
3. Enter sub contractor completion date.

NOTE: A separate signed form is needed for each contractor.

## **2<sup>ND</sup>, 3<sup>RD</sup>, etc TIER SUB CONTRACTOR**

1. Enter sub contractor information, subcontractor signature is not needed.
2. Enter 2nd tier sub contractor information and provide signature.
3. Enter 2nd tier contract completion date.

(Revised 8/23/13)

**Form A:** Apprenticeship & Training Contribution Compliance Statement for NM Public Works

**No Payment is required for Type "A" projects or 100% Federally Funded projects.**

**Note** In accordance with the NM Apprenticeship & Training Act, **payment is due for all employees**, apprentices and journeymen.

**Please complete all items on form.** Make your check payable to the *Apprenticeship & Training Contribution Fund*. Mail the check with this form to: NMDWS, Apprenticeship & Training Fund, **P.O. Box 27428** Albuquerque, New Mexico 87125-7428. Payments are due by the 15<sup>th</sup> of each month for hours worked in the previous month per NMSA. A \$10 per day late fee may be assessed.

**Project Name:** \_\_\_\_\_ **State Wage Decision No.** \_\_\_\_\_

**Company Name:** \_\_\_\_\_ (Circle one) Contractor / Sub / 2<sup>nd</sup> Tier Sub / 3<sup>rd</sup> Tier Sub

**Address:** \_\_\_\_\_ **City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip** \_\_\_\_\_ **Phone** \_\_\_\_\_

**Payment for Month/Year of** \_\_\_\_\_ **Check No.** \_\_\_\_\_ **Total Check Amount** \_\_\_\_\_ **Date of Check** \_\_\_\_\_

(Sample Entry) Classification Trade Name Do not list names of employees	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Total Hours	Appr. Rate per Hour	Total Contribution Amount
	8/4/2013	8/11/2013	8/18/2013	8/25/2013	8/31/2013			
LABORERS	120	62.5	0	90	110.5	383	.27	103.41
Classification Trade Name	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Total Hours	Appr. Rate per Hour	Total Contribution Dollar Amount

Print name of person completing form \_\_\_\_\_ e-mail address \_\_\_\_\_

I certify that the information provided on this form is true and accurate to the best of my knowledge.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_ ext \_\_\_\_\_

**Note** A separate compliance statement is required for each month and each project, however only one check is needed.  
When paying into a NM Apprenticeship Program please use *Form B: Apprenticeship & Training Compliance Statements for Approved Programs*.  
NMDWS WILL NOT ACCEPT CREDITS WHEN PAYMENT IS OVER PAID



# PAYROLL STATEMENT OF COMPLIANCE

Wage Decision No. : \_\_\_\_\_

I, \_\_\_\_\_, do hereby state:

(Name of Signatory Party)

(Title)

(1) that I pay or supervise the payment of the persons employed by: \_\_\_\_\_

(Contractor or Subcontractor)

on the \_\_\_\_\_

(Name of Project)

that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, all persons employed on said project have been paid the full weekly wages earned, that no deductions have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_ from the full weekly wages earned by any

(Contractor or Subcontractor)

person, other than deductions permitted by law. Anyone found in violation of the NM Public Works Minimum Wage Act [13-4-11 to 13-4-17 NMSA 1978] could be subject to penalties and debarment.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborer or mechanic conform with the work he performed.

(3) That any apprentice(s) employed in the above period are duly registered in a bona fide apprenticeship program registered with the State Apprenticeship agency recognized by the Bureau of Apprenticeship & Trng., US Dept. of Labor, or properly enrolled in a bona fide training program approved for application on public works construction projects by the appropriate state (SAC) and/or federal agency(ies) (BAT) if and as required by law & applicable federal regulation.

(4) **FRINGE BENEFITS: (Please Spell Out Any/All Acronyms)**

\_\_\_(a) ARE PAID TO APPROVED PLAN, FUND, OR PROGRAM in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above-referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate program for the benefit of such employees.

*If paid to an approved plan, fund, or program, please fill out name of program w/fringe breakdown per hour below.*

**Name of Program Used for Fringe Benefits:**

<b>Pension =</b>	<b>Health/Welfare =</b>	<b>Holiday/Vac. =</b>	<b>Life Ins. =</b>	<b>Training* =</b>
(If additional space is needed for more programs/fringe breakdowns, please attach a separate page.)				

FRINGE BENEFITS:

1. Pension

2. Health/Welfare

3. Holiday/Vacation

4. Life Insurance

5. Training (not Apprenticeship) \*

FRINGE BREAKDOWN SAMPLE:

Fringe Benefit:	Amount:
401(K) Plan	\$8.98/hr.
Vacation	\$2.23/hr.

\_\_\_(b) **Paid to Union Program** - If paid to a Union and fringe benefits differ from employee to employee, and/or job contract, please provide fringe breakdown for each employee and attach copy of Union contract.

\_\_\_(c) ARE PAID IN CASH, each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract.

Section 13-1D-1 to Section 13-1D-8, NMSA 1978 provides for employers to agree to make contributions to approved apprentice & training programs in New Mexico in which the employer is a participant to the public works apprentice and training fund administered by the Public Works Bureau of the Labor & Industrial Division of the New Mexico State Department of Labor. Contributions shall be made in the same manner and in the same amount as apprentice and training contributions required pursuant to wage rate determinations made by the Labor & Industrial Division Director.

**APPRENTICESHIP CONTRIBUTIONS:** (Please check applicable blank)

\_\_\_ Check paid to: NM Public Works Apprenticeship & Training Fund - Public Works Bureau, Labor & Industrial Div.

\_\_\_ Check paid to: \_\_\_\_\_  
(Name & address of approved Apprenticeship & Training Program) (Program No.)

Print Name of Certifying Official: \_\_\_\_\_ Signature of Certifying Official: \_\_\_\_\_ Title & Phone No.: \_\_\_\_\_ Date: \_\_\_\_\_

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

Revised April/2006

## WEEKLY PAYROLL

Revised Feb/2014

[illegible]

## **2023 SUBSISTENCE, ZONE AND INCENTIVE PAY RATES**

All contractors are required to pay subsistence, zone, and incentive pay according to the particular trade

### **Asbestos workers or heat and frost insulators**

- (1) Zone 1 shall consist of the area lying within the city limits of a circle whose radius is 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$0.00 per day.
- (2) Zone 2 shall consist of Los Alamos county - \$40.00 per day if not furnished a company owned vehicle.
- (3) Zone 3 shall consist of the area lying beyond a circle whose radius is over 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$85.00 per day.

### **Boilermakers/Blacksmiths**

- (1) Per diem is calculated from city hall of the dispatch city or the employee's home address, whichever is closer to the job location,
- (2) Per diem is \$55.00 per day for travel between 70 and 120 miles and \$85.00 per day for travel over 120 miles.

### **Bricklayers**

- (1) Between 70 and 120 miles, \$55.00 per day
- (2) 121 or more miles, \$70.00 per day

### **Cement Masons**

- (1) For employees who travel to Santa Fe from Albuquerque or vice versa, \$20.00 per day.
- (2) In all other work performed more than 50 miles from the employer's main office, \$50.00 per day.
- (3) Mutually agreed-upon lodging or transportation paid for by the employer will substitute for subsistence pay.

### **Drywall Finishers and Tapers**

- (1) \$40.00 per day (\$5.00 per hour for eight hours work) for over 60 miles over the most typically traveled route, or other mutually agreed upon suitable lodging or transportation.
- (2) If an employee has worked the full week on four 10-hour days, the employee shall be paid the full week of per diem of \$200.00.
- (3) Special provision for Santa Fe and Albuquerque: Employees who travel between Santa Fe and Albuquerque will be paid \$15.00 per day or other mutually agreed upon lodging or transportation.

### **Electricians (inside classifications)**

- (1) For Albuquerque only:
  - (a) Zone 1 is classified as being within 40 miles from the main post office.
  - (b) Zone 2 shall extend up to 10 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.
  - (c) Zone 3 shall extend up to 20 miles beyond zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.
  - (d) Zone 4 shall extend 20 miles or more beyond zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.
- (2) For Los Alamos County only: work performed within the county shall be compensated fifteen percent above the zone 1 journeyman rate.
- (3) For all other counties:
  - (a) Zone 1 is:
    - (i) within six miles from the main post office for Raton, Tucumcari, and Farmington.
    - (ii) within eight miles from the main post office for Las Vegas.
    - (iii) within ten miles from the main post office for Santa Fe and Gallup.
    - (iv) within twelve miles from the main post office for Belen, Carrizozo, Clovis, Los Lunas, Portales, Roswell, Ruidoso, Artesia, Carlsbad, Hobbs, and Lovington.
    - (v) within fourteen miles from the main post office for Espanola.
  - (b) Zone 2 shall extend up to 20 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.
  - (c) Zone 3 shall extend up to 30 miles from zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.
  - (d) Zone 4 shall extend beyond 30 miles from zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.
- (4) When workers are ordered to report to the shop and then to the job and from job to job, and return to the shop, they shall be paid for the time spent traveling and shall be furnished transportation by the Employer. Under these conditions the Zone 1 rate and any applicable overtime will be paid.

### **Electricians (outside classification)**

Zone 2: \$50.00 per diem to be paid for work 30 miles outside of Santa Fe and 60 miles outside of Albuquerque. No per diem in Los Alamos county.

## **Glaziers**

- (1) When out-of-town travel is required, the employer shall pay the employee for suitable lodging with no more than two people per room and \$20.00 per night for food.
- (2) Employees required to use a personal vehicle for travel to a jobsite beyond a 30 mile radius of the main post office in town where the employer's shop is located shall be compensated at the current Internal Revenue Service (IRS) rate for actual mileage incurred beyond the 30 mile radius, plus their regular rate of pay for travel time.

## **Ironworkers**

- (1) Travel more than 50 miles from the interchange of Interstate 40 and Interstate 25 or from the employee's home should be paid at \$9.00 per hour.
- (2) If travel is within Santa Fe county, travel time shall be paid at \$3.00 per hour.

## **Laborers**

- (1) Type A:
  - (a) Work travel between 50 and 85 miles from the employer's primary address should be compensated at \$3.50 per hour.
  - (b) Work travel 86 miles or greater from the employer's primary address should be compensated at \$5.00 per hour.
- (2) Types B and C:
  - (a) Work travel under 50 miles is a "free zone";
  - (b) The municipal limit of the city of Santa Fe is \$30.00 per day;
  - (c) Work travel between 50 and 75 miles from the union hall to include the municipal limits of Estancia, Grants, and Socorro is \$40.00 per day.
  - (d) All work over 75 miles from the union hall is \$50.00 per day.
- (3) Type H – no zone subsistence pay:
- (4) If an employer provides the employee transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.

## **Millwrights**

- (1) Work travel between 76 and 150 miles should be compensated at \$50.00 per day.
- (2) Work travel greater than 150 miles should be compensated at \$75.00 per day.

## **Operating Engineers**

- (1) Type A operators should be compensated for zone and subsistence as follows:
  - (a) Work travel between 50 and 85 miles from the interchange of Interstate 25 and Interstate 40 in Albuquerque, or from the Farmington City Hall in Farmington, should be compensated at \$2.50 per hour.
  - (b) Work travel 86 miles or more from the interchange of Interstate 25 and Interstate 40 in Albuquerque or from the Farmington City Hall in Farmington, should be compensated at \$4.00 per hour.
- (2) Type B and C operators:
  - (a) Base points for operators are 30 miles and beyond:
    - (i) Bernalillo county courthouse in Albuquerque;
    - (ii) State capital building in Santa Fe;
    - (iii) City hall in Farmington.
  - (b) Zone and subsistence for Albuquerque and Santa Fe are as follows:
    - (i) work travel between 30 and 50 miles from the base point compensated at \$20.00 per day;
    - (ii) work travel between 51 and 100 miles from the base point compensated at \$45.00 per day;
    - (iii) work travel over 100 miles from the base point that involves an overnight stay compensated at \$75.00 per day.
  - (c) Zone and subsistence for Los Alamos county, \$50.00 per day.
  - (d) Zone and subsistence for Farmington is as follows:
    - (i) work travel between 35 and 75 miles from the base point compensated at \$45. 00 per day,
    - (ii) work travel over 100 miles from the base point compensated at \$75.00 per day.
  - (e) If an employer provides the employee transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.
- (3) Type H operators are not eligible for zone and subsistence pay.

## **Painters**

- (1) Zone 1: Base pay for an area within a 30 mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone I.
- (2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.
- (3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$2.50 per hour above base pay.

- (4) When the employee is required to stay overnight, the employer should provide and pay for suitable lodging.
- (5) Employer will furnish transportation or gasoline for all work performed beyond the 30 mile radius that encompasses the free cities of Albuquerque, Santa Fe or Belen.

### **Paper hangers**

- (1) Zone 1: Base pay for an area within a 30 mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone I.
- (2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.
- (3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$2.50 per hour above base pay.
- (4) When the employee is required to stay overnight, the employer should provide and pay for suitable lodging.
- (5) Employer will furnish transportation or gasoline for all work performed beyond the 30 mile radius that encompasses the free cities of Albuquerque, Santa Fe or Belen.

### **Plasterers**

- (1) Employees who travel from Albuquerque to Santa Fe should be compensated at \$20.00 per day.
- (2) Except for employees who travel from Santa Fe to Albuquerque, work travel 75 miles or more from the employer's office over the most typically traveled route should be compensated at \$5.00 per hour and capped at \$40.00 per day.

### **Plumbers and pipefitters**

- (1) Work travel for 90 or more miles from an employee's primary residence, and involving an overnight stay, should be compensated at \$80.00 per day.
- (2) No zone or subsistence pay is required should the employer elect to cover the room cost.
- (3) Los Alamos county workers receive \$0.80 per hour incentive pay plus base and fringe.

### **Roofers**

Work travel requiring an overnight stay should be compensated at \$35.00 per day for food. Employer should provide and pay for a suitable hotel. When employees are assigned to jobs located 60 or more miles from the employer's place of business, transportation to and from the job site must be provided.

### **Sheet metal workers**

- (1) Work travel 90 miles or more from contractor's home base and employee's home, should be paid at \$80.00 per day subsistence pay plus base and fringe, regardless of county.
- (2) Los Alamos county: \$2.00 per hour incentive pay plus base and fringe.
- (3) Workers living 60 or more miles from a San Juan county job site receive \$3.00 per hour subsistence pay plus base and fringe.

### **Soft floor layer**

- (1) Zone 1: Base pay for an area within a 30 mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone I.
- (2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.
- (3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$3.13 per hour above base pay.
- (4) Employer will furnish transportation or gasoline for all work performed beyond the 30 mile radius that encompasses the free cities of Albuquerque, Santa Fe or Belen.
- (5) When the employee is directed to report to a job site and the distance to the job site requires the employee to stay out of town overnight, the employer shall provide housing arrangements for the affected employees.

### **Sprinkler fitters**

- (1) Work travel between 60 and 80 miles from the employee's primary residence should be compensated at \$22.00 per day.
- (2) Work travel between 81 and 100 miles from the employee's primary residence should be compensated at \$32.00 per day.
- (3) Work travel of 101 miles or more from the employee's primary residence should be compensated at \$120.00 per day.
- (4) No zone or subsistence pay shall be paid when the employer provides daily transportation and the employee elects to travel back and forth from home.





**DENNIS ENGINEERING COMPANY**  
**SUPPLEMENTAL PROVISIONS**  
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Note: Supplemental Provisions prepared by DENNIS ENGINEERING COMPANY reference the New Mexico Department of Transportation 2019 Standard Specifications and apply to this project. In case of a discrepancy between these supplemental Provisions and the New Mexico Department of Transportation 2019 Specifications, the Supplemental Provisions shall govern.

<b>Division</b>	<b>Pages</b>
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The New Mexico Department of Transportation's "Standard Specifications for Road and Bridge Construction" 2019 Specifications have been used as the format for the Supplemental Provisions with minor modifications, wherein references to the Project Manager shall be synonymous with ENGINEER, and references to the Department shall be synonymous with OWNER or ENGINEER as implied and clarified by the Engineer. Section and Paragraph Numbers are provided for reference. Any item of construction omitted from Specifications herein shall be installed per the most current NMDOT Standards. Except as modified by the Provisions contained herein and in the Contract Drawings, all materials, appliances, and construction shall conform to the most current Standards published by the New Mexico Department of Transportation.

The NMDOT 2019 Specifications are available on the NMDOT website on the PS&E Plans, Specifications, and Estimate pages.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 203**

**EXCAVATION, BORROW AND EMBANKMENT**

All provisions of Section 203 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

203.1 DESCRIPTION

This work shall consist of performing excavation in soil and rock material, providing borrow material, constructing embankment, hauling, disposing, placing and compacting all materials in conformance with the specifications, and the lines, grades, thicknesses, and typical cross-sections identified in the contract documents.

203.2 MATERIALS

All material is unclassified. Geotechnical and/or pavement investigations the Contractor may rely upon, if any, will be provided in the contract.

203.2.1.2 Unclassified Excavation

Unclassified excavation shall consist of the excavation of all materials obtained by the Contractor, suitable to achieve the lines, grades, thicknesses required to complete the typical cross-sections identified in the contract documents.

203.2.1.3 Borrow

Borrow shall consist of materials obtained from the project or by the Contractor, suitable to achieve the lines, grades, thicknesses required to complete the typical cross-sections identified in the contract documents.

203.2.1.5 Unsuitable Material

Unsuitable material includes organic materials, frozen lumps, ice, and soils such as peat, shale, gypsum, or other soil or rock materials that may degrade with time, or are contaminated.

203.3 CONSTRUCTION REQUIREMENTS.

203.3.3.1 Blasting Requirements

Blasting will not be permitted.

203.3.4 Borrow

The Contractor shall be responsible for obtaining the borrow material, suitable to achieve the lines, grades, thicknesses required to complete the typical cross-sections identified in the contract documents.

203.3.5 Embankments

The Contractor shall not place embankment material on frozen earth, or incorporate frozen soils in embankments. The Contractor shall suspend embankment construction if embankment material become frozen. The Contractor shall not resume embankment construction until the materials are thawed and suitable for compaction.

203.4 METHOD OF MEASUREMENT:

203.3.4.3 Unclassified Excavation and Borrow

Unclassified excavation and borrow will be measured by the lump sum.

203.5 BASIS OF PAYMENT

Pay Item

Unclassified excavation will be paid at the lump sum contract unit price.

203.5.1 Double Handling

Separate payment will not be made for double handling of materials.

203.5.2 Work Included in Payment

Separate payment will not be made for borrow and embankment, for the removal and disposal (away from the site) of excess material, if applicable or for re-handling or reworking the material to meet moisture and density requirements and no measurement or direct payment will be made therefore.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 206**

**EXCAVATION AND BACKFILL FOR CULVERTS AND MINOR STRUCTURES**

All provisions of Section 206 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

206.1 DESCRIPTION

This Work consists of excavating, placing and compacting select backfill, bedding, and flowable fill Materials, and disposing of Material related to construction of Minor Structures. Excavation includes dewatering, pumping, bailing, draining, sheeting, bracing, and Incidentals required for proper execution of the Work.

Ditches required at Culvert inlets and outlets, and other locations indicated in the Contract Documents are included under the item for Unclassified Excavation.

206.2 MATERIALS

206.2.1 Select Backfill

The Contractor shall furnish a suitable, well-graded, compactible Material free of Recycled Asphalt Pavement (RAP), organic matter, clay balls, lumps, rock fragments that may degrade with time such as shale or gypsum and other Deleterious Materials. Select backfill Material shall conform to the following and be placed in accordance with the Contract Documents:

1. For structures and pipes other than plastic pipe:
  - a. Maximum particle size: two (2) inch;
  - b. Soil classification, AASHTO M 145 A-1 or A-2-4;
2. For plastic pipe:
  - a. Maximum particle size: ¾ inch; and
  - b. Soil classification, AASHTO M 145 A-1 or A-2-4.

206.2.2 Flowable Fill

The Contractor may substitute flowable fill for select backfill in accordance with Section 516, "Flowable Fill," at no additional cost to the Owner. The Contractor shall secure Culverts and minor Structures to prevent flotation.

206.2.3 Bedding

The Contractor shall furnish a suitable, well-graded, non-plastic, free draining Material, free of Recycled Asphalt Pavement (RAP), organic matter, clay balls, lumps, rock fragments that may degrade with time such as shale or gypsum and other Deleterious Materials. Bedding Material shall conform to the following and be placed in accordance with the Contract Documents:

1. Maximum particle size: ½ inch or half the corrugation depth, whichever is smaller; and
2. Material passing No. 200 (75-µm) sieve: ten percent (10.0%) max AASHTO T 27 and AASHTO T 11.

All Bedding Material shall meet the electrochemical requirements where specified in the Contract Documents.

206.2.4 Unsuitable Material

Unsuitable Material includes organic Materials, frozen lumps, ice; soils such as peat, shale, gypsum or other Materials that may degrade with time, or are contaminated soil. Suitable Material that is unstable may be reworked to create a stable platform as directed by the Engineer.

Material below minor Structures and areas identified by the Engineer, determined to be unsuitable shall be excavated and disposed of in accordance with the Contract Documents.

When unsuitable Material is removed and disposed of, the resulting void shall be filled with Material suitable for its planned use as directed by the Engineer. Such suitable Material shall be placed and compacted in accordance with this Specification.

206.3 CONSTRUCTION REQUIREMENTS

206.3.1 General

The Contractor shall remove unsuitable foundation Material below the specified bottom-of-structure elevation and replace with approved Material, as directed by the Engineer. The Contractor shall use backfill Material to backfill Culverts in accordance with Section 206.2.1, "Select Backfill," or Section 206.2.2, "Flowable Fill," unless otherwise shown on the Plans. The Contractor shall ensure the moisture content of the soil; at the time of compaction is not less than five percent (5%) below optimum moisture content or greater than optimum moisture content. The Contractor shall compact the top six (6) inches of existing ground to at least 95% of maximum density in accordance with AASHTO T 180 (Modified Proctor), Method A or D (TTCP Modified). The Contractor shall maintain the density, approved surface elevation, and shape of the foundation immediately before placing Structures and forms.

The Contractor shall distribute backfill Material in uniform layers, each no more than eight(8) inches thick (loose measurement) and compact to 95 percent (95%) maximum density. At the time of compaction, the Contractor shall ensure that the in-place moisture content of the soil is not less than three percent (3%) below optimum moisture content or greater than three percent (3%) above optimum moisture content in accordance with AASHTO T 180 (Modified Proctor), Method A or D (TTCP Modified). The Contractor shall test field density and moisture content using nuclear methods in accordance with AASHTO T 310 and Section 906 "Minimum Testing Requirements."

Application of load including backfill against new masonry or concrete Structures shall be in accordance with Section 511.3.5.6, "Sequence of Placement and Application of Load." The Contractor shall maintain Structure alignment and integrity during backfill compaction. The Contractor shall not place backfill on frozen earth or with frozen Materials. The Contractor shall suspend operations until Material is thawed and meets requirements of this Specification. The Contractor shall remove sheeting and bracing before placing backfill.

206.3.2 Pipe Culverts, Storm Drains, and Structural Plate Pipe

For preparation and installation of pipe culverts, storm drains, and structural plate pipes with bottoms the Contractor shall remove rock and other unyielding foundation Material a minimum of four (4) inches (maximum 12 inches) below the bottom of the Structure. The Contractor shall backfill this added depth with an approved Material as identified in the Contract Documents. The Contractor shall excavate trenches as described in the Contract Documents to allow for pipe joining and compaction of the bedding and backfill Material under and around the pipe in accordance with Section 206.3.1, "Construction

Requirements, General.” The Contractor shall ensure that the trench width for pipes and Culverts conforms to the trench widths requirements in Section 570.3.2, “Excavation and Backfill.” The Contractor shall uniformly compact the trench for its full length and width. If specified in the Contract Documents, the Contractor shall provide the longitudinal camber of the specified magnitude for cross drains.

#### 206.3.3 Box Culverts and Other Drainage Structures

For preparation and installation of box culverts and other drainage structures the Contractor shall excavate Material to the elevations established by the Contract Documents. The Contractor shall not remove Material, except unsuitable Material, below the final grade, if placing footings on excavated surfaces other than rock. The Contractor shall remove rock and other unyielding foundation Material a maximum 12 inches below the bottom of the Structure. The Contractor shall clean rock seams and cavities, and fill with concrete or grout. If the Contractor’s excavation extends beyond the neat lines shown in the Contract Documents, the Contractor shall use concrete (of the same class as the footing) to backfill these areas, at no additional cost to the Owner.

The Contractor shall notify the Engineer after each footing excavation. The Contractor shall not place footings until the excavation depth and foundation Materials are approved by the Engineer. The Contractor shall maintain the moisture and density and the approved surface elevation and shape of the foundation before installing reinforcing steel.

#### 206.4 METHOD OF MEASUREMENT

The Engineer will measure the void created by the removal of Unsuitable Material Excavation below the bottom-of-structure elevation.

#### 206.5 BASIS OF PAYMENT

Pay Item	Pay Unit
Unsuitable Material Excavation	Incidental

The Owner will pay for rock excavation in accordance with Section 203, “Excavation, Borrow, and Embankment.”

#### 206.5.1 Work Included in Payment

Excavation, disposal of unsuitable Material, bedding, backfill and select backfill Materials, placement and compaction of bedding and select backfill Materials for Culverts, storm drains, other drainage Structures, box Culverts, and minor Structures shall be included in the Contract unit price per linear foot of Structure identified in the Contract Documents.

Excavation shall include all dewatering, pumping, bailing, draining, sheeting, bracing, and Incidentals required for proper execution of the Work. Select backfill shall include the use of Section 516, “Flowable Fill.” Backfilling with concrete of the same class as the footings where the Contractor excavates below the established final elevation for bottom of footings or beyond the neat lines of the footings in rock or other hard foundation Material shall be included in the Contract unit price per linear foot of Culvert. Unrippable rock or unyielding Material will be defined and paid for as covered in Section 203, “Excavation, Borrow, and Embankment.”



**DENNIS ENGINEERING COMPANY**

**SUPPLEMENTAL PROVISIONS**

**MODIFYING**

**SECTION 207**

**SUBGRADE PREPARATION**

All provisions of Section 207 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**207.1 DESCRIPTION**

This work shall consist of grading, compacting, and finishing the subgrade in substantial conformance with the specifications and to the lines, grades, and typical cross-sections identified in the contract documents.

**207.3 CONSTRUCTION REQUIREMENTS**

Maximum dry density of all soil types encountered or used will be determined in accordance with AASHTO T180 (Modified Proctor), Method A or D (TCCP Method).

The Contractor shall scarify, process, and compact the top six (6) inches of the roadbed to 95% of maximum density. All rocks larger than 3" diameter shall be removed from the top 6" of all roadway subgrade to permit suitable processing, grading and compaction.

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

Materials testing shall be in accordance with AASHTO T310, or by other Engineer approved methods and specification 906.

**207.3.1 Tolerances**

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

**207.4 METHOD OF MEASUREMENT:**

The unit of measurement shall be square yard, in-place, as measured and computed by the Engineer. Measurement will be made the full width of the subgrade per the applicable typical section along centerline of each street. Subgrade preparation required for curb and gutter, sidewalks, and other concrete work will not be measured unless specifically identified in the contract documents.

**207.5 BASIS OF PAYMENT**

Subgrade preparation will be paid for at the contract unit price per square yard.

**207.5.1 Work Included in Payment**

Separate payment will not be made for the removal and disposal (away from the site) of excess or unsuitable material, for proof rolling for unstable subgrade stabilization or for rehandling or reworking the material to meet moisture, density and tolerance requirements.

SUPPLEMENTAL PROVISIONS

**MODIFYING  
SECTION 303  
BASE COURSE**

All provisions of Section 303 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

303.1 DESCRIPTION

This work consists of providing, hauling, and placing base course.

303.1.1 Stockpiling

This work consist of removing, hauling and stockpiling base course at locations authorized by the Engineer.

303.2 MATERIALS

303.2.1 General

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

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

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

303.2.2 Aggregate Acceptance

The Owner and Engineer will accept base course based on random samples taken by the Contractor from the roadway. The Contractor shall produce material in compliance with Standard Specification 303.2.2.

303.3 CONSTRUCTION REQUIREMENTS

303.3.1 Subgrade

The Contractor shall place base course on subgrade prepared in accordance with DEC Supplemental Provision 207.

303.3.2 Mixing and Placing

The Contractor shall

1. Place base course a maximum six (6) inch compacted lifts;
2. Not place base course material on frozen subgrade, and;
3. Compact base course to at least 96% of maximum density as determined by AASHTO T180 (Modified Proctor), Method D (TCCP Modified).

The Contractor will use nuclear testing methods to determine in-place densities in accordance with AASHTO T310 and TCCP procedure for wet density moisture correction.

#### 303.3.3 Surface Tolerance

The surface tolerance shall not exceed 0.05 foot above or below established grade and 0.05 foot above or below the typical cross-section measured on the finished surface at right angles to the centerline. The Contractor shall correct all deviations from these tolerances.

#### 303.3.4 Plan Base Course and Sub-base Depths

The Contractor will monitor and record base course depth during the placement in accordance with the NMDOT "Minimum Testing Requirements". IF the placed thickness deviates from the requirements more than minus 0.05 foot, the Contractor shall add material and reprocess to correct the deficiency.

#### 303.3.5 Stockpiled Base Course

The Contractor shall stockpile base course material at locations authorized by the Engineer. The Contractor shall maintain each stockpile in accordance with the following requirements:

1. Place stockpiles on site subgrade prepared in accordance with DEC Supplemental Provision 207;
2. Make stockpiles neat and regular to prevent segregation;
3. Provide enough storage space for each size of aggregate;
4. Prevent contamination by storing stockpiles away from vehicular and equipment traffic, site drainage and other sources of contamination;
5. Keep the storage site neat and orderly and keep stockpiles accessible for sampling;
6. The Contractor will obtain Engineer's acceptance of the final stockpile locations prior to preparing the site subgrade, and;
7. The Contractor will obtain Engineer's acceptance of placing base course material at the stockpile locations after preparing the site subgrade and prior to placing base course material.

#### 303.3.6 Removing and Processing Base Course

The Contractor shall:

1. Minimize contamination of all base course material when removing it from the roadway for reuse, and;
2. Meet the requirements indicated in Section 303.3.2.

#### 303.3.8 Acceptance

Base course will be accepted based on samples taken in accordance with the Contract Documents, after placement and compaction. If necessary, the Contractor shall re-work the base course until all requirements of the Contract Documents are met at no additional expense to the Owner.

#### 303.4 METHOD OF MEASUREMENT

The unit of measurement shall be cubic yard, in-place, as measured and computed by the Engineer. Measurement will be made the full width of the base course per the applicable typical section along centerline of each street.

303.5 BASIS OF PAYMENT

Base course will be paid for at the contract unit price per cubic yard, furnished, placed, compacted, finished and accepted by the Engineer.

303.5.1 Work Included in Payment

Separate payment will not be made for the removal and disposal (away from the site) of excess or unsuitable material; providing, hauling, placing and compacting base course material; stockpiling, proof rolling or for rehandling or reworking the material to meet moisture, density and tolerance requirements.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 401**

**PAVEMENT SMOOTHNESS MEASUREMENT**

All provisions of Section 401 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

401.1 DESCRIPTION

This work consists of providing and using profile testing equipment that incorporates the Mean Roughness Index (MRI) measurement for the established categories provided within this Section. The MRI is the average International Roughness Index (IRI) or left and right wheel paths.

Unless otherwise specified in the Contract Documents, Category III, Straightedge Measurements will be applicable to all asphalt applied on the project.

This Supplemental Provision applies to this project, with one (1) opportunity for pavement smoothness under Category III. An example of one (1) opportunity for pavement smoothness is a single lift of paving operations for asphalt.

401.3.2 Straightedge Measurements (Category III)

Before corrective measures, the Contractor shall request in writing for approval by the Engineer to validate surface deviations with a ten (10) foot straightedge. If approved, the Contractor shall use Contractor's personnel, to measure a ten (10) foot straightedge at both right angles and parallel to the centerline, advancing the straightedge in five (5) foot increments in the presence of the Engineer, or his designee. The Contractor shall correct deviations greater than 1/4 inch within ten (10) feet, as directed by the Engineer.

Failure by Contractor to correct any and all validated surface deviations 1/4 inch and greater will result in a fifth percent (50%) price reduction to all asphalt for the project.

401.4 METHOD OF MEASUREMENT

The Engineer will determine the smoothness Pay Adjustments on the calculated square yard of the surface area of the travel lane by the plan typical section travel lanes and 300-foot length.

401.5 BASIS OF PAYMENT

Surface smoothness testing and corrective work to bring the final surface within specification smoothness is incidental to the asphalt and no separate payment will be made.

401.5.1 Pay Adjustments

Failure by the Contractor to correct any and all validated surface deviations 1/4 inch and greater will result in a fifty percent (50%) price reduction to all asphalt for the project.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 414**

**COLD MILLING**

All provisions of Section 414 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

414.1 DESCRIPTION

This work shall consist of cold milling pavement surface(s) to the depth and width shown on the contract documents and removing, hauling and disposing of cold milling materials, to locations identified in the contract documents, or as directed by the Engineer.

The surface may be cold-milled, roto-milled or recycled by other means, accepted by the Engineer.

The surface shall be cold-milled, roto-milled or recycled in-place for a depth of 4", or to the full depth of the existing pavement, for the full width of the existing pavement surface.

414.3 CONSTRUCTION REQUIREMENTS

414.3.1 Equipment

The cold milling equipment shall be subject to approval by the Engineer.

Contractor shall furnish a self-propelled machine capable of pulverizing in-situ bituminous material to the full depth and width of the existing surface.

414.3.2 Operations

The existing pavement surface shall be pulverized to the full depth and width of the surface and shall have 100% of the material passing a 2.0-inch sieve.

414.4 Method of Measurement

Cold milling of existing pavement surfaces will be measured by the square yard and computed by the Engineer.

414.5 BASIS OF PAYMENT

Cold milling of existing pavement surfaces will be paid for at the contract unit price per square yard as computed by the Engineer.

414.5.1 Work Included in Payment

The following are considered inclusive to the payment for items listed in this section and separate payment will not be made:

1. Water (hauling, supplying, etc.)
2. Hauling, Stockpiling or spreading milled material at locations designated in the contract documents or as directed by the Engineer.
3. Debris cleaning & sweeping of all surfaces;
4. Disposal and removal of asphalt materials or milled material not retained by the Owner.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 423**

**HOT MIX ASPHALT (HMA) (MAJOR PAVING)**

All provisions of Section 423 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**423.1 DESCRIPTION**

This work shall consist of constructing one (1) or more courses of Hot-Mix Asphalt (HMA) on a prepared base, to include crushing, stockpiling, hauling, binder, mineral admixture, mix design, mixing, providing cold feeds, process control, placement and compacting the HMA complete-in-place.

**423.2.2.1 Gradation and Quality Requirements**

Plant mix bituminous pavement aggregate shall be SP-IV conforming to the following requirements:

Sieve Size	% Passing per HMA Type					
	SP-II		SP-III		SP-IV	
	Min.	Max.	Min.	Max.	Min.	Max.
2 in.	----	----	----	----	----	----
1- ½ in.	100	----	----	----	----	----
1 in.	90	100	100	----	----	----
¾ in.	----	90	90	100	100	----
½ in.	----	----	----	90	90	100
3/8 in.	----	----	----	----	----	90
No. 8	19	45	23	49	28	58
No. 200	1.0	7.0	2.0	8.0	2.0	10.0

**423.2.3 Asphalt Binder**

The type of asphalt binder material for this project shall be PG 70-22.

**423.3.5.7 Test Strip & Shakedown Period**

The Contractor has the option to perform the test strip and shakedown period for quality control and compliance to the specifications prior to any placement of HMA. If HMA placed as a test strip, or for the project, does not comply with the specifications, the Contractor shall remove and replace the HMA at no cost to the Owner.

#### 423.3.6.3.1.1 Acceptance of Pavement Density

Acceptance of the HMA shall be based on the sampling and testing performed by an Independent Laboratory hired by the Contractor.

#### 423.4 METHOD OF MEASUREMENT

The unit of measurement shall be square yard, in-place, as measured and computed by the Engineer. Measurement will be made the full width of the HMA per the applicable typical section along centerline of each street.

#### 423.5 BASIS OF PAYMENT

HMA will be paid for at the contract unit price per square yard, furnished, placed, compacted, finished and accepted by the Engineer.



SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 452**

**SEALING AND RESEALING CONCRETE PAVEMENT JOINTS**

All provisions of Section 452 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

452.1 DESCRIPTION

Sealing of concrete pavement joints shall consist of cleaning, priming if necessary, and sealing joints as described herein, at the locations shown in the contract. Resealing of concrete pavement joints shall consist of removing the existing joint sealant, sawing, cleaning, priming if necessary, and sealing joints as described herein, at the locations shown in the contract.

Only joints between adjacent Portland cement concrete surfaces shall be sealed in accordance with this section. All joints between PCCP and bituminous pavement shall be sealed in accordance with Section 411, Hot-Poured Crack Sealant, unless otherwise designated in the plans.

452.4 METHOD OF MEASUREMENT

452.4.1 Sealing and resealing concrete pavement joints will not be measured.

452.5 BASIS OF PAYMENT

452.5.1.1.1 Separate payment will not be made for sealing and resealing concrete pavement joints. All work, equipment, and materials required for sealing and resealing concrete pavement joints shall be installed and paid for in accordance with the associated Bid Items.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 510**

**PORTLAND CEMENT CONCRETE**

All provisions of Section 510 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

510.1 DESCRIPTION

This Work consists of placing Portland Cement Concrete (PCC).

510.2 MATERIALS

All Materials shall be tested in accordance with AASHTO and ASTM methods or other test procedures designated the NMDOT State Materials Bureau who is the final authority regarding the interpretation of test procedures. The Contractor shall correct or remove and dispose of improperly graded or segregated Material that fails to meet the requirements as directed by the Engineer and at no additional cost to the Owner.

The Contractor shall only use the Materials listed on the approved mix design. The Contractor shall not substitute an approved Material or Material Source listed on the approved mix design without written prior approval by the State Materials Bureau. The Engineer will consider a Material change only if the Contractor obtains approval from the State Materials Bureau.

510.2.1 Portland Cement Concrete

The Contractor shall use a portland cement concrete mixture that has been reviewed and approved in accordance with Section 509, "Portland Cement Concrete Mix Designs" for the freeze-thaw risk zone in which the Project is located.

510.2.2 Aggregate

The Contractor shall use aggregates that are the same as those used on the approved mix design. The Contractor shall not use aggregate from a different source as that shown on the approved mix design.

If the concrete mixture is approved under the conventional stockpile procedures, the Contractor shall ensure the gradations comply with Table 509.2.3.2.1, "Coarse Aggregate Gradation Requirements" and Table 509.2.3.3.11:1, "Fine Aggregate Gradation Requirements."

If the concrete mixture is approved under the combined gradation procedures, the Contractor shall ensure that the most current gradations have been reviewed, and the Coarseness Factor and the Workability Factor comply with Section 509.2.7.5.1, "Combined Gradations."

510.2.3 Water

Water used for the production and curing of concrete shall conform to ASTM C1602. Water shall have a pH between six (6.0) and 8.5; sulfate or chloride contents shall not exceed 1,000 ppm, and shall be free of oil, silt, clay, organic matter, or other Deleterious Material. Non-potable water sources shall be tested prior to use. Residual water, wash water, or

recycled water generated by Equipment, mixer trucks, or central mixers shall not be used in concrete production.

### 510.3 CONSTRUCTION REQUIREMENTS

#### 510.3.1 Submittals

Submit the following in accordance with the Contract Documents:

1. Approved mix designs for each concrete class used in the Project;
2. Mix designs developed for Project specific requirements.

#### 510.3.1.1 Freeze-Thaw

The Contractor shall use an approved concrete mix design which has been approved for use in a freeze-thaw zone of equal or greater risk than the zone in which the Project is located.

#### 510.3.1.2 Class Substitution

The Contractor may substitute an approved structural class of concrete with a higher compressive strength than that of the specified class of concrete, as long as the design slump characteristics remain the same (i.e. Class HPD for Class AA, Class AA for Class A, and Class P for Class F). The Contractor shall not substitute Class A for Class AA or Class F for Class P concrete mixtures.

#### 510.3.1.4 Plastic Properties

The allowable slump range for non-superplasticized Class AA, Class HPD and Class A concrete is 3.5 inches  $\pm$  one (1.0) inch. The allowable slump range for Class F and Class P Slip-Formed Concrete is 1.5 inches  $\pm$  one (1.0) inch. All test procedures and frequencies will be performed in accordance with the Minimum Testing Requirements. The Contractor shall measure the air content in accordance with AASHTO T 121. The air content determined by AASHTO T 121 will be used to confirm compliance with the specified air content for structural concrete.

1. Low Risk Freeze/Thaw Zone – from 4.5% to eight percent (8.0%);
2. Medium Risk Freeze/Thaw Zone – from five percent (5.0%) to eight percent (8.0%);  
or
3. High Risk Freeze/Thaw Zone – from 5.5% to eight percent (8.0%).

#### 510.3.1.5 Troubleshooting

If the concrete produced using approved mix design fails to meet requirements, the Contractor shall immediately notify the Engineer. The Contractor shall be responsible for notifying the Supplier and the Private Testing Laboratory (PTL) that designed the mixture. The PTL shall work with the Contractor and State Concrete Engineer to make the necessary changes to resolve the problems. Efforts to evaluate problems with the concrete do not relieve the Contractor of the responsibility to provide a concrete mixture that meets Project requirements.

If the compressive strengths do not comply with the requirements of the Contract Documents, the Contractor shall describe the needed adjustments. The Contractor shall submit a written summary of the adjustments to achieve compressive strength to the Engineer and State Materials Bureau for approval.

#### 510.3.4.3 Concrete Sampling and Testing

The Contractor shall test for Quality Control and the Owner may test for Acceptance in accordance with Division 900, "Quality Criteria" and as specified in this Section. The Contractor Quality Control Field Technicians shall be certified by ACI or TTCP.

1. The Contractor shall test the concrete for compliance in accordance with Supplemental Provision 906, "Minimum Testing Requirements." The Contractor shall obtain representative samples of concrete being tested for the required properties from the point of discharge into the Structure being placed. The Contractor shall provide test results to the Engineer and Owner after the final compressive strength tests for each set of test specimens is completed with a copy to the Supplier on a weekly basis.

2. The Contractor shall mold and cure concrete cylinders for compressive strength tests in accordance with AASHTO T 23, Making and Curing Concrete Test Specimens in the Field using four (4) inch × eight (8) inch single use plastic cylinder molds with plastic lids. The Contractor shall use cylinder molds that are six (6) inch × 12 inch if the nominal maximum size of the aggregate is equal to or greater than 1.5 inch.

3. The Contractor shall use a rod to consolidate the concrete for all slump, air content and unit weight tests and all compressive strength test cylinders cast with normal slump concrete. For Class F and P, the Contractor shall use a vibrator to consolidate the concrete in all air content and unit weight tests and all test cylinders cast from slip form concrete. The Contractor shall not use a rod to consolidate slip- form concrete.

4. Prior to any concrete placement or multiple concrete placements with differing location(s), the Contractor, Supplier and Engineer shall agree upon in writing the location(s) of the initial curing station(s) for concrete cylinders. If a pre-concrete placement conference is required, the location(s) of the initial curing station(s) shall be a required item of discussion. The Engineer will not agree to any initial curing location that will jeopardize the integrity of the test specimens during subsequent transport to the initial curing location. The curing station may be relocated should the current location cause a detrimental effect to the Project as agreed upon by the Contractor, Supplier and Engineer. The new location shall be designated by the Contractor, Supplier and Engineer.

5. The Contractor shall provide all necessary support at the agreed upon initial curing location(s) for all testing and to maintain sufficient safe storage space, including but not limited to water bath container, water for initial curing of concrete cylinders, heating or cooling as necessary, generators (and alternate power sources, as needed) and all vibratory Equipment and all Equipment required to operate the vibratory Equipment as required by this Section.

6. Immediately after molding, the concrete test cylinders shall be transported vertically, in a water filled container to the initial curing station. The Contractor shall begin curing of test cylinders by placing them in a water bath with a temperature of 70 °F ± ten (10) °F.

The Contractor shall maintain the water-filled containers with the test cylinders undisturbed for a minimum of 21 h, but not more than 48 h, from the time of placement. The Contractor shall ensure that the level of water never drops below the tops of the cylinders.

Water baths for both Quality Control and Acceptance testing shall be provided and maintained by the Contractor. Cylinders shall be appropriately marked to differentiate between Quality Control and Acceptance testing.

7. After initial curing, the Contractor shall strip the concrete cylinders and place into a standard curing tank (or moist room) in accordance with AASHTO T 23, Section 10.1.3. If the cylinders are to be shipped to an off-site Laboratory for testing, the Contractor shall maintain the cylinders in the standard curing environment at a temperature of 73 ± °F until they are ready to be transported. The Contractor shall not ship test cylinders until they are at least 48 h old.

8. The party that prepared the test specimens shall be responsible for transporting them from the initial curing station to the final curing location. The Contractor shall protect the test specimens from being damaged in any way. Specific attention will be paid to protection from sun, wind, rain, vibrations, moisture loss and any sudden drops or impacts during transport.

#### 510.3.4.3.1 Testing Frequency

The Contractor's independent laboratory will perform all testing in accordance with the Minimum Testing Requirements as defined in Supplemental Provision 906, "Minimum Testing Requirements."

#### 510.3.5 Acceptance

##### 510.3.5.1 Concrete Strength

The Engineer will determine the compressive strength for compliance by averaging two (2) or more concrete cylinder test results from the same concrete sample and tested at the specified age. The Contractor will make, handle, and store cylinders in accordance with AASHTO T 23 and test in accordance with AASHTO T 22. The Engineer will consider the result from a single cylinder only as an indicator. It will not be considered an actual strength measurement. On-site storage facilities shall be provided by the Contractor.

##### 510.3.5.3 Compressive Strength of Concrete Based on Cylinders for Payment

The Owner will accept concrete based on the compressive strength cylinder tests when the compliance tests equal or exceed the specified strength. If the compliance test is less than the specified strength, the test will be considered Acceptable if both of the following requirements are met:

1. The running average of three (3) consecutive individual strength tests, as determined by the Engineer for the concrete used on the Project, which meets or exceeds the specified strength; and
2. No Individual Strength Test as defined in Section 510.3.5.1.1, "Individual Strength Test" falls below the specified strength by more than 15%.

If the compliance tests are not 100% or more of the specified strength, the Engineer will review the tests and notify the Contractor whether the concrete will be accepted at a reduced price, or if it has been "rejected". The Engineer will only allow rejected concrete to remain in place based on an engineering analysis. Concrete that is rejected shall be removed and replaced at the Contractor's expense and time.

##### 510.3.5.5 Price Adjustments

Concrete that is less than 100%, but is greater than 85% of the specified strength shall have the reduced in price in accordance with Table 510.3.5.5:1, "Pay Factors Based on % of Specified Strength."

Table 510.3.5.5:1

#### Pay Factors Based on % of Specified Strength

Specified Strength, %	Pay Factor, %
97 - 99	98
94 - 96	96
91 - 93	92
88 - 90	84
85 - 87	75
Less than 85%	Reject

The Engineer will only allow rejected concrete to remain in place based on an engineering analysis Accepted by the Owner. A 50% pay factor will be applied to rejected Material that is allowed to remain in place. Otherwise, rejected Material shall be removed and replaced at no additional expense to the Owner.

If the compliance strength test is 85% or more of the specified strength then the Contractor may request to have a Hardened Air Content Test on a core obtained from the concrete in question. The Contractor shall obtain the core in accordance with AASHTO T 24 and immediately seal it in a plastic bag. The Owner will take immediate possession of the core, for evaluation by an Owner approved Petrographer in accordance with ASTM C457, linear traverse method. If the result of the hardened air content analysis meets the requirements below, the concrete will be paid for at full price:

1. A minimum air content of five percent (5.0%);
2. A specific surface greater than 600 inches<sup>2</sup>/ft<sup>3</sup>; and
3. A spacing factor less than 0.008 inch.

#### 510.4 METHOD OF MEASUREMENT

The Engineer will measure concrete or concrete items in accordance with the section of these Standard Specifications for which the concrete is used.

#### 510.5 BASIS OF PAYMENT

Payment will be made in accordance with the unit prices in the Contract Documents for which the concrete is used.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 540**

**STEEL REINFORCEMENT**

All provisions of Section 540 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

540.1 DESCRIPTION

This Work consists of providing and placing steel reinforcement.

540.4 METHOD OF MEASUREMENT

No measurement will be made for steel reinforcement.

540.5 BASIS OF PAYMENT

Separate payment will not be made for steel reinforcement. Payment associated with the work, materials, labor, equipment etc., associated with supplying, mixing, delivering, etc., steel reinforcement shall be included in the various items containing steel reinforcement.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 601**

**REMOVAL OF STRUCTURES AND OBSTRUCTIONS**

All provisions of Section 601 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

601.1 DESCRIPTION

This work shall consist of removing and salvaging, wholly or in part, and satisfactory disposal of buildings, fences, structures, utility lines, pavement in it's entirely or partially to neat cut or saw cut lines, irrigation or storm drain piping and other obstructions that are not designated or permitted to remain.

It shall also include salvaging designated materials and backfilling the resulting trenches, holes, pits, and the disposal of steel items coated with lead paint.

The CONTRACTOR shall repair all salvageable items that are damaged during removal, whether designated for removal in the contract or by the ENGINEER. All fees associated with damage repairs shall be at no cost to the OWNER.

601.4 METHOD OF MEASUREMENT

Removal of all structures and obstructions will be measured by the lump sum unit.

601.5 BASIS OF PAYMENT

Removal of all structures and obstructions, including milled asphalt, gravel, and soil that are required to complete the intended construction, including final grading and clean-up, will be paid for at the lump sum contract price.

Monthly partial payments for removal of all structures and obstructions will be made at the rate of progress made towards completion of the project, less previous partial payments for this item. The partial payment shall be computed as follows:

$$P = [(A \times L) / B] - C$$

Where:

P is the Partial Payment

L is the Item Contract Amount for removal of all structures and obstructions

A is the number of days charged the Contractor toward completion of the project.

B is the Current Contract Time

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



SUPPLEMENTAL PROVISIONS

**REPLACING**

**SECTION 603**

**TEMPORARY EROSION AND SEDIMENT CONTROL**

All provisions of Section 603 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**603.1 DESCRIPTION**

This work consists of preparing a Storm Water Pollution Prevention Plan (SWPPP), and constructing, inspecting, and maintaining erosion, sediment control, and storm water pollution prevention facilities for the discharge of storm water associated with construction activity. This work includes construction phase activities through final stabilization

The Contractor is responsible for ensuring that the work and construction site(s) comply with the provisions of the Clean Water Act (CWA), 33 U.S.C. § 1251 et. seq., as amended by the Water Quality Act of 1987, P.L. 100-4. Any permits required under the National Pollutant Discharge Elimination System (NPDES) shall be obtained by the Contractor, and any associated costs with providing and implementing storm water pollution prevention measures shall be borne by the Contractor.

Projects that disturb one (1) or more acres of land, or will disturb less than one (1) acre of land but is part of a common plan of development or sale that will ultimately disturb one (1) or more acres of land must obtain coverage under the NPDES Construction General Permit (CGP) if all eligibility conditions are satisfied.

Projects that disturb one (1) or more acres of land but less than five acres may qualify for a Low Erosivity Waiver (LEW). The EPA may waive the otherwise applicable permit requirements for storm water discharges from construction activities that take place during a period when the rainfall erosivity factor (R factor) is less than five (5).

**603.1.1.2 Department Responsibilities**

The Contractor shall prepare and include plans and final stabilization (TESCP), a Revegetation/ Erosion Control Plan, and a SWPPP information sheet. The final stabilization TESCP sheets will include the information provided in the Standard Specification 603.1.1.2.

**603.1.1.3 Contractor Responsibilities**

In addition to the responsibilities of Standard Specification 603.1.1.3, the Contractor shall prepare and include the requirements of Standard Specification 603.1.1.2.

**603.1.6 Liquidated Damages**

Any failure to maintain the measures in the field and lack of orderly documentation, including but not limited to continuous inspection reports, may result in noncompliance citations by the EPA, or fails to comply with Standard Specification 603.1.6, may result in the Owner accessing liquidated damages in accordance with the following schedule.

### **Liquidated Damages Schedule**

Original Contract Amount		Damages Per Calendar Day
Greater than or equal to:	Less than:	
\$0	\$200,000	\$250
\$200,000	\$500,000	\$500
\$500,000	\$1,000,000	\$750
\$1,000,000	No Limit	\$1,000

603.1.6.1 The Engineer will maintain a schedule of calendar days for each day of noncompliance by the Contractor. The compiled schedule of calendar days shall form the basis for assessing the liquidated damages. Liquidated damages shall continue until the Engineer provides written notice of satisfactory compliance with this Supplemental Provision.

1. If the Contractor or his or her agents refuses or fails to adhere to the requirements of the NPDES General Permit and as a result an assessment or fine is made or levied against the Owner, the Contractor shall reimburse the Owner within 10-calendar days of the assessment, or fine, or the Owner may withhold the amount of the assessment, or fine, from the Contractor's next pay estimate (pay application) and deliver that sum to the permitting agency issuing the assessment, or fine.

#### 603.4 METHOD OF MEASUREMENT

Temporary Erosion and Sediment Control will be measured by the lump sum unit.

#### 603.5 BASIS OF PAYMENT

Temporary Erosion and Sediment Control, including SWPPP plan preparation and maintenance, BMP's, installation of BMP's, inspection, and maintenance of erosion and sediment control measures, preparation of inspection reports, updating and/or modifying, maintaining, and retaining the SWPPP and other related records, will be paid for at the lump sum contract price.

##### 603.5.1 Work Included in Payment

Separate payment will not be made for SWPPP plan preparation and maintenance, BMP's, installation of BMP's, inspection, and maintenance of erosion and sediment control measures, preparation of inspection reports, updating and/or modifying, maintaining, and retaining the SWPPP and other related records.

##### 603.5.2 Partial Payments

An initial partial payment for Temporary Erosion and Sediment Control will be based on the equation provided in Standard Specification 603.5.2.

SUPPLEMENTAL PROVISIONS

MODIFYING

SECTION 608

**SIDEWALKS, DRIVEPADS, AND CONCRETE MEDIAN PAVEMENT**

All provisions of Section 608 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

608.1 DESCRIPTION

This work shall consist of the construction of sidewalks, drive pads, detectable warning surfaces, and concrete median pavement in compliance with this Supplemental Provision, the Standard Specifications, the American with Disabilities Act of 1990, and with the lines and grades shown in the contract documents.

608.2 Materials

608.2.2.1 Silicone Joint Sealant and Backer Rod

The Contractor shall provide silicone joint sealant and backer rod (bondbreaker) from the Department's Approved Products List and in accordance with Section 452, "Sealing and Resealing Concrete Pavement Joints". Sealant shall be applied at all expansion joints.

608.3 CONSTRUCTION REQUIREMENTS

608.3.5.2 Joints.

The Contractor shall fill the expansion joints with pre-molded expansion joint filler. The Contractor shall fill sealed expansion joints with a backer rod and silicone joint sealant at intervals of **30 feet**.

The Contractor shall divide sidewalks, drive pads, and concrete median pavement into sections with contraction joints formed with a scoring tool to create round edges. The Contractor shall create contraction joints that are approximately 0.125 inches wide and extend into the concrete at least one-third (1/3) the depth of the sidewalk, drive pad or concrete median pavement at intervals of **5 feet**. Contraction joints are not required in patterned concrete median pavement.

The Contractor shall construct expansion joints that extend into and through the sidewalk around utility valve boxes, manholes, pipe inlets, utility poles, or other items that extend through the finished surface of the concrete sidewalk, drive pad or concrete median pavement.

The Contractor shall install expansion joint filler 0.75 inch thick between sidewalks and fixed structures, such as buildings or bridges. The Contractor shall ensure the expansion joint filler extends the full depth of the concrete.

608.4 METHOD OF MEASUREMENT

The unit of measurement shall be square yard, in-place, as measured and computed by the Engineer. Measurement will be made the full width of the concrete sidewalk, drive pad or concrete median pavement per the applicable section. Subgrade preparation, bed course, and other related work will not be measured unless specifically identified in the contract documents.

Measurement for concrete curb returns and fillets will be by each.

608.5 BASIS OF PAYMENT

Concrete sidewalk, drive pad and concrete median pavement will be paid for at the contract unit price per square yard.

Concrete curb returns and fillets will be paid at the contract unit price for each.

608.5.1 Work included in Payment.

The following work items will be considered incidental to the main items and will not be measured or paid for separately:

1. Excavation, borrow, backfill, compaction, subgrade preparation, bed course;
2. Expansion joint (including silicone joint sealant & backer rod); coloring, detectable warning surface and other related items and appurtenances.

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SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 609**

**CURB AND GUTTER**

All provisions of Section 609 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

609.1 DESCRIPTION

This work consists of constructing asphalt or concrete curb, concrete gutter, and concrete curb-and-gutter combinations in compliance with the contract documents.

609.3 CONSTRUCTION REQUIREMENTS

609.3.4 Joints

The Contractor shall construct curb and gutter in sections with uniform length of **30** feet. The Contractor shall separate sections by open joints, 1/8 inch wide, except at expansion joints. The Contractor shall construct contraction joints at intervals of **5** feet.

The Contractor shall form expansion joints at intervals of **30** feet, using preformed expansion joint filler with a thickness of **3/4** inch.

The Contractor shall construct transverse weakened plane and expansion joints at right angles to the line of the concrete curb and gutter.

The Contractor may construct expansion joints by sawing through the concrete curb and gutter section to its full depth. The Contractor shall ensure the width of the cut accepts the joint filler with a snug fit.

The Contractor shall complete the operations of sawing and inserting the joint filler before curing the concrete. At the conclusion of the curing period, the Contractor shall check the filler in each joint for tightness. The Contractor shall mortar in place and cure loose filler in joints.

If constructing the curb and gutter adjacent to other concrete, expansion joints shall be located opposite to or at expansion joints in the pavement.

609.4 METHOD OF MEASUREMENT

The unit of measurement shall be linear foot, in-place, as measured and computed by the Engineer. Measurement will be made along the flow line of the gutter. Subgrade preparation, bed course, and other related work will not be measured unless specifically identified in the contract documents.

609.5 BASIS OF PAYMENT

Asphalt or concrete curb, concrete gutter, and concrete curb-and-gutter combinations will be paid for at the contract unit price per linear foot. Curb and gutter will be paid at the contract unit price per linear foot.

609.5.1 Work Included in Payment

The following work items will be considered incidental to the main items and will not be measured or paid for separately:

1. Excavation, borrow, backfill, compaction, subgrade preparation, bed course;
2. Expansion joint (including silicone joint sealant & backer rod); coloring, detectable warning surface, reinforcing steel, and other related items and appurtenances.

**DENNIS ENGINEERING COMPANY**

**SUPPLEMENTAL PROVISIONS**

**MODIFYING**

**SECTION 618**

**TRAFFIC CONTROL MANAGEMENT**

All provisions of Section 618 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**618.1 DESCRIPTION**

This work shall consists of providing a traffic control plan and traffic control management in accordance with the contract documents and the Manual of Uniform Traffic Control Devices (MUTCD), current edition, including supervision of personnel and the installation, inspection, and maintenance of traffic control devices on the project.

This work additionally includes furnishing, placing, maintaining, updating all devices to be implemented in the traffic control plan prepared by the Contractor. All traffic control equipment shall remain the property of the Contractor upon completion of construction.

**618.4 METHOD OF MEASUREMENT**

Traffic control management will be measured by the lump sum unit. Separate measurement will be made for a traffic control plan or traffic control devices.

**618.5 BASIS OF PAYMENT**

Traffic control management and all work associated therewith will be paid for at the lump sum contract price.

**618.5.1 Partial Payments**

Monthly partial payments for traffic control management will be made at the rate of progress made towards completion of the project, less previous partial payments for this item. The partial payment shall be computed as follows:

$$P = [(A \times L) / B] - C$$

Where:

P is the Partial Payment

L is the Item Contract Amount for Traffic Control Management

A is the number of days charged the Contractor toward completion of the project.

B is the Current Contract Time

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

The Owner will negotiate payment for additional traffic control management resulting from an increase in work beyond the scope of the project. The contractor shall not start work until agreement on payment for additional traffic control management has been authorized.

For normal increases in contract items resulting in extensions of the contract time, the Owner will not increase the original lump sum amount.

SUPPLEMENTAL PROVISIONS

**MODIFYING  
SECTION 621  
MOBILIZATION**

All provisions of Section 621 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

621.1 DESCRIPTION

This Work consists of mobilization, remobilization and demobilization to and from the project.

621.2 MATERIALS

The Contractor shall provide all personnel, equipment, materials, incidentals and operating supplies to the project.

621.3 CONSTRUCTION REQUIREMENTS

Mobilization, remobilization and demobilization shall include all required insurance, bonds and permits, preparatory work and operations necessary for the providing all personnel, equipment, materials, supplies and incidentals to and from the project.

621.4 METHOD OF MEASUREMENT

Mobilization will be measured by the lump sum unit.

621.5 BASIS OF PAYMENT

Mobilization and all work associated therewith will be paid for at the lump sum contract price.

621.5.1 Work Included in Payment

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

1. When one percent (1%) or more of the Total Original Contract Amount less Mobilization is earned, up to 25 percent (25%) of the amount Bid for Mobilization or three percent (3%) of the Total Original Contract Amount, whichever is less, will be paid;
2. When five percent (5%) or more of the Total Original Contract Amount less Mobilization is earned, up to 50 percent (50%), less previous amounts paid, of the amount Bid for Mobilization will be paid;
3. When 10 percent (10%) or more of the Total Original Contract Amount less Mobilization is earned, up to 75 percent (75%), less previous amounts paid, of the amount Bid for Mobilization will be paid;
4. When 25 percent (25%) or more of the Total Original Contract Amount less Mobilization is earned, up to 90 percent (90%), less previous amounts paid, of the amount Bid for Mobilization will be paid; and
5. When 50 percent (50%) or more of the Total Original Contract Amount less Mobilization is earned, up to 100 percent (100%), less previous amounts paid, of the amount Bid for Mobilization will be paid.



The total sum of all mobilization payments shall not exceed the original contract amount bid for this item.

The Owner will not make additional payments for remobilization or demobilization due to shutdowns, whole or partial suspensions of the work or for other mobilization activities required for satisfactory completion of the contract.

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**SUPPLEMENTAL PROVISIONS**

**MODIFYING  
SECTION 662  
MANHOLES**

All provisions of Section 662 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**662.1 DESCRIPTION**

This Work consists of constructing manholes. The Contractor shall construct manholes complete with covers, steps, fittings, and other appurtenances. This Work also includes installation of reducing cones, manhole extensions, ties to existing manholes, manhole adjustments, and manhole frame and covers.

**662.4 METHOD OF MEASUREMENT**

The Engineer will measure additional depth for adjusted manhole from the invert of the manhole to the finished top of the manhole ring.

**662.5 BASIS OF PAYMENT**

<u>Pay Item Pay</u>	<u>Unit</u>
Manhole as identified in the Contract Documents	Each
Manhole Adjustment (to Existing)	Each
Manhole Extension (to Existing)	Each
Connect to Existing Manhole	Each

**662.6 WORK INCLUDED**

Work shall include all labor, equipment, excavation, backfill, mortar, rings, steps, frames, covers, barrels, lids, collars, and other items necessary to provide a complete facility. Separate payment will not be made for concrete subgrade preparation, epoxy coating (as required), and leakage testing.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 701**

**TRAFFIC SIGNS AND SIGN STRUCTURES**

All provisions of Section 701 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

701.1 DESCRIPTION

This work shall consist of furnishing and installing traffic signs and sign structures in compliance with the Manual of Uniform Traffic Control Devices (MUTCD), and as shown in the Contract Documents or as directed by the Engineer and Owner during construction.

701.2 MATERIALS

701.2.6 Sign Structures and Hardware

The Contractor shall select aluminum panel sign and base posts from the NMDOT Approved Products List. The Contractor shall install posts in accordance with NCHRP Report 350 and/or MASH criteria for single and multiple-post installations, and with the post manufacturer's wind load chart. The Contractor shall supply Certificates of Compliance to the Engineer. All installations shall comply with the post manufacturer's wind load chart unless otherwise specified in the Contract Documents.

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

1. Hot dipped galvanizing in accordance with ASTM A 653 or ASTM A 123;
2. Hot dip galvanized zinc coating, in accordance with AASHTO M 120, followed by a chromate conversion coating and a cross-linked polyurethane acrylic exterior coating.

701.4 METHOD OF MEASUREMENT

Panel signs will be measured by the square foot of sign area. Steel posts and base posts for aluminum panel signs will be measured by the foot. Street signs will be measured by the unit per each.

701.5 BASIS OF PAYMENT

Panel signs will be paid for at the contract unit price per square foot of sign face area. Steel posts and base posts for aluminum panel signs will be paid for at the contract unit price per foot. Street signs will be paid at the unit price bid for each sign installed in accordance to the Contract Documents.

#### 701.5.1 Work Included in Payment

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

- A. Hardware;
- B. Excavation, backfill, and compaction for installation;
- C. Reinforcing steel;
- D. Concrete;
- E. Hauling and disposal of removals;
- F. Hauling and stockpiling of salvageable Materials;
- G. Protective coatings; and
- H. Other miscellaneous items that may be necessary to complete construction of the contract item.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 702**

**CONSTRUCTION TRAFFIC CONTROL DEVICES**

All provisions of Section 702 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

**702.1 DESCRIPTION**

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

**702.2.2 Barricades and Channelization Devices**

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

Suppliers proposing traffic control devices for inclusion on NMDOT's Approved Products List must submit product certifications for, and receive, approval prior to Construction.

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

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

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

**702.2.2.5 Traffic Cones**

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

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

**702.3 CONSTRUCTION REQUIREMENTS**

**702.3.1 General**

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

#### 702.3.1.1 Portable Sign Support System

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

#### 702.3.2 Maintenance

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

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

#### 702.4 METHOD OF MEASUREMENT

Construction Traffic Control Devices will not be measured.

#### 702.5 BASIS OF PAYMENT

Construction Traffic Control Devices will not be paid separately and the cost therefore shall be included in Traffic Control Management.

##### 702.5.1 Work Included in Payment

The following Work and items will be considered as included in Traffic Control Management and will not be measured or paid for separately:

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

DENNIS ENGINEERING COMPANY

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 704**

**PAVEMENT MARKINGS**

All provisions of Section 704 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

704.1      DESCRIPTION

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

704.2.1    MATERIAL SAMPLING, TESTING, AND ACCEPTANCE OF MATERIALS

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

The Contractor shall submit to the NMDOT State Materials Bureau samples of traffic paint and glass beads as per NMDOT Traffic Paint Sampling and Testing Procedures and provide the Engineer with a compliance report designating the products meet the current NMDOT Specifications for Traffic Paint and Glass Beads. The Engineer reserves the right to have an inspector present to observe the sampling or manufacturing process.

The Contractor shall furnish a certificate with reference from the State Materials Bureau, indicating that Materials provided to the Project have been tested and accepted by the NMDOT State Materials Bureau, verifications of the certification will be made to the Engineer for the traffic paint or glass beads furnished to the Project.

704.4      METHOD OF MEASUREMENT

The Engineer will measure permanent and temporary Retroreflectorized Painted Markings for four (4) inch, six (6) inch, eight (8) inch, 12 inch, and 24 inch widths using multiples of the standard four (4) inch width to calculate a total length. Legends, symbols and specialty markings will be paid by each.

704.5      BASIS OF PAYMENT

<u>Pay Item Pay</u>	<u>Unit</u>
Reflectorized Painted Markings	Foot
Temporary Reflectorized Painted Markings	Foot
Legends, Symbols and Specialty Markings	Each

#### 704.5.2 WORK INCLUDED IN PAYMENT

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

1. Removal of temporary marking tape;
2. Repair or replacement of damaged striping due to Contractor's negligence or operations;
3. Standard surface preparation;
4. Maintaining and protecting the pavement markings from traffic during the marking operations;
5. Mobile traffic control operations for long line, or heavy traffic marking operations;
6. Black out line for contrast markings; and
7. Cold weather additives.



SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 801**

**CONSTRUCTION STAKING BY THE CONTRACTOR**

All provisions of Section 801 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

801.1 DESCRIPTION

801.1 General

This work shall consist of performing all construction staking, essential for the control and completion of the project.

801.1.2 Department-Supplied Documents and Services

The Engineer will provide the Contractor with survey data sufficient to layout, control, and complete the staking during construction, in accordance with the lines, grades, and details identified in the Contract Documents.

801.1.3 Contractor-Supplied Personnel & Services

The Contractor shall provide qualified personnel who are experienced in similar construction to the project to perform construction staking. Per NMSA 61-23-27.13, a New Mexico licensed surveyor is required to be in responsible charge of construction staking surveys for the construction of any public works project involving surveying. The Contractor shall furnish the name of the firm, name of the licensed surveyor and license number, in responsible charge of the construction staking at the preconstruction conference.

The Contractor shall locate and establish control points with the data given in the Contract Documents.

The Contractor shall verify Engineer-provided survey data, and submit changes or adjustments to the Engineer for review and acceptance at no cost to the Owner.

801.3.2 Construction Staking Documentation

The Contractor shall complete construction staking field notes and other documentation in accordance with the current NMDOT Survey Handbook and accepted industry methods achieving required accuracy.

The Contractor shall keep field notes in a standard field notebook in a clear, orderly, and neat manner, consistent with professional surveying practices, unless stated otherwise in the Contract.

Construction staking documentation will become the property of the Owner and shall be provided to the Engineer upon request and when the Work is complete. The Contractor shall provide construction staking documentation to the Engineer upon request. The Contractor shall submit earthwork quantities, slope staking, surface extracted cross sections, and earthwork calculations to the Project Manager for review before completing that phase of the Work. The Contractor shall ensure a New Mexico licensed professional surveyor or professional Engineer stamps and certifies the quantities and all submittals. No Work shall be performed until the Engineer receives all necessary survey data and

reviews the data for the Work being staked. Data shall consist of points files, with X,Y and Z; cuts, fills, offsets and references provided to the Contractor in form of a Microsoft Excel (.xlsx) file and in Autocad (.dwg) format.

801.4 Method of Measurement

Construction staking by the Contractor will be measured by the lineal foot along the construction centerline of the proposed improvements, as measured and computed by the Engineer, or as a lump sum unit as indicated in the Contract Documents.

801.5 BASIS OF PAYMENT

Construction staking by the Contractor will be paid for at the unit price per lineal foot or at the lump sum contract price as provided in the Bid Forms.

801.5.1 Work Included in Payment

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

1. Slope stake changes; and
2. Other staking changes.

SUPPLEMENTAL PROVISIONS

**MODIFYING**

**SECTION 802**

**POST CONSTRUCTION PLANS**

All provisions of Section 802 of the N.M.D.O.T 2019 Standard Specifications and Supplemental Specification 1506 shall apply except as modified below:

802.1 DESCRIPTION

802.1.1 General

This work consists of providing Post Construction Plans to show in detail, changes in quantities, alterations in the details of the Drawings, including but not limited to alterations in the grade or alignment of the road, structures, or both, existing utility crossings exposed during construction new utility appurtenances, new utility alignments, and depths . Post Construction Plans shall be kept current throughout construction and readily available at the project, at all times, for the Engineer to review.

The Post Construction Plans, including any revised plan sheets, shall be neat, legible and of the size let. All revisions to the original plans shall be delineated in black ink, located properly on the drawing, legible and true to scale. Every Post Construction Plan, Profile and Cross Section sheet shall be designated by not or stamp "As-Built" in the upper right corner area in black.

802.4 METHOD OF MEASUREMENT

Post Construction Plans will be measured by the lump sum unit.

802.5 BASIS OF PAYMENT

Post Construction Plans and all work associated therewith will be paid for at the lump sum contract price.

# DENNIS ENGINEERING COMPANY

## SUPPLEMENTAL PROVISIONS

### MODIFYING

### SECTION 906

### MINIMUM TESTING REQUIREMENTS (MTR'S)

All provisions of Section 906 of the N.M.D.O.T 2019 Standard Specifications shall apply except as modified below:

#### 906.1 DESCRIPTION

##### 906.1.1 General

This work consists of Minimum Testing Requirements for the Contractor which includes construction sampling tests, and testing frequencies of materials incorporated into the work.

##### 906.1.2 Minimum Testing Requirements

<b>Table 906 – Minimum Testing Requirements - Contractor</b>			
<b>Item</b>	<b>Test Required</b>	<b>Sample/ Test Location</b>	<b>Testing Frequency</b>
Excavation, Borrow and Embankment	In-place Density and Moisture	Roadway	1 per 2,000 CY
	Proctor/ Soil Classification	Borrow pit/ Stockpile / Project R/W	1 per Material Type
Foundations/ Backfill for Culverts and Minor Structures	In-place Density and Moisture	Structure	See Table 906.1.2:2 Standard Specifications
	Gradation/ PI/ Proctor/ Soil Classification		1 per Material Type
Subgrade Preparation	In-place Density and Moisture	Roadway	1 per 300 SY
	Proctor/ Soil Classification		1 per Material Type
Foundations for Sidewalks, Drive Pads and Concrete Median Paving	In-place Density and Moisture	Foundation Material Location	1 per 150 SY
	Proctor/ Soil Classification		1 per Material Type
Bed Course for Sidewalks, Drive Pads and Concrete Median Paving	In-place Density and Moisture	Material Location	1 per 500 SY
	Gradation/ PI/ Proctor/ Soil Classification		1 per Material Type
Foundations for Curb and Gutter	In-place Density and Moisture	Foundation Material Location	1 per 150 SY
	Proctor/ Soil Classification		1 per Material Type

<b>Table 906. Continued – Minimum Testing Requirements - Contractor</b>			
<b>Item</b>	<b>Test Required</b>	<b>Sample/ Test Location</b>	<b>Testing Frequency</b>
Bed Course for Curb and Gutter	In-place Density and Moisture	Material Location	1 per 500 SY
	Gradation/ PI/ Proctor/ Soil Classification		1 per Material Type
Base Course	In-place Density and Moisture	Roadway	1 per 100 CY
	Proctor/ Soil Classification	Processed Material	1 per Material Type
	Gradations		1 per 500 Tons
	FF, LL, PI		
	Thickness	Roadway	1 per 100 CY
Concrete	Slump, Air, Break	Every 100 CY or days pour per mix design	1
HMA Superpave	Asphalt Content, Gradation, GMM, Gmb, Air Voids, VMA, VFA, DP	Roadway	1 per 500 tons or days production
	Roadway Compaction (Cores)		1 set of 3 per 500 tons or days production
	Roadway Compaction (Nuclear Method)		Contractor's Determination, as Deemed Needed
	FE, SE, F&E, FAA, Moisture	Cold Feed before addition of Mineral Admixtures	

#### 906.1 METHOD OF MEASUREMENT

Construction materials testing will not be measured. If the Contractor fails to provide copies of the quality control test reports within 48-hours of all tests, the Contractor will be assessed a penalty in the amount of \$100.00 per calendar day the results are late.

#### 901.7 BASIS OF PAYMENT

Contractors construction materials testing will be made at the quality control laboratory invoice price plus 10%, to an amount not to exceed the unit price bid, less any liquidated damages that may be assessed for results not submitted in accordance with these specifications.

SUPPLEMENTAL PROVISIONS

**SECTION 1502**

**SUBMITTALS**

1502.1 GENERAL

1502.1.1 This Section specifies administrative and procedural requirements for submittals required for performance of the Work, including:

1502.1.1.1 Shop Drawings:

Drawings, diagrams and schedules specifically prepared to illustrate some portion of the work.

Diagrams and instruction from a manufacturer or fabricator for use in producing the product and as aids to the Contractor for integrating the product or system to the project.

Drawings prepared by or for the Contractor to show how multiple systems and interdisciplinary work will be coordinated.

1502.1.1.2 Product Data:

Catalog cuts, illustrations, schedules, diagrams, performance charts, instructions and brochures illustrating size, physical appearance and other characteristics of materials or equipment for some portion of the work.

Samples of warranty language when the contract requires extended product warranties.

1502.1.1.3 Samples:

Physical examples of materials, equipment or workmanship that illustrate functional and aesthetic characteristics of a material or product and establish standards by which the work can be judged.

Color samples from the manufacturer's standard line (or custom color samples if specified) to be used in selecting or approving colors for the project.

Field samples and mock-ups constructed on the project site establish standards by which the ensuing work can be judged. Includes assemblies or portions of assemblies which are to be incorporated into the project and those which will be removed at conclusion of the work.

1502.1.1.4 Design Data:

Calculations, mix designs, analyses or other data pertaining to a part of work.

1502.1.1.5 Test Reports:

Report signed by authorized official of testing laboratory that a material, product or system identical to the material, product or system to be provided has been tested in accord with specified requirements. (Testing must have been within three years of date of contract award for the project.)

Report which includes findings of a test required to be performed by the Contractor on an actual portion of the work or prototype prepared for the project before shipment to job site.

Report which includes finding of a test made at the job site or on sample taken from the job site, on portion of work during or after installation.

Investigation reports.

Daily checklists.

Final acceptance test and operational test procedure.

1502.1.1.6 Certificates:

Statements signed by responsible officials of manufacturer of product, system, or material attesting that product, system, or material meets specification requirements. Must be dated after award of project contract and clearly name the project.

Documents required of Contractor, or of a supplier, installer, or subcontractor through Contractor, the purpose of which is to further quality of orderly progression of a portion of the work by documenting procedures, acceptability of methods or personnel qualifications.

1502.1.1.7 Manufacturer's Instructions:

Preprinted material describing installation of a product, system or material, including special notices and Material Safety Data sheets concerning impedances, hazards and safety precautions.

1502.1.1.8 Manufacturer's Field Reports:

Documentation of the testing and verification actions taken by manufacturer's representative to confirm compliance with manufacturer's standards or instructions.

Factory test reports.

1502.1.1.9 Operation and Maintenance Data:

Data intended to be incorporated in operations and maintenance manuals.

1502.2 SUBMITTAL PROCEDURES

1502.2.1 Coordination: Coordinate preparations and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay.

1502.2.1.1 The Engineer reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.

1502.2.1.2 Processing: Allow sufficient review time so that installation will not be delayed as a result of the time required to process submittals, including time for resubmittals.

Allow two weeks for initial review. Allow additional time if processing must be delayed to permit coordination with subsequent submittals. The Engineer will advise the Contractor within seven days after the receipt of a submittal being processed that must be delayed for coordination.

No adjustment for time or money will be authorized because of failure to transmit submittals to the Engineer sufficiently in advance of the Work to permit processing or for corrective actions required as a result of noncompliance with plans or specifications.

1502.2.2 Submittal Preparation: Place a permanent label or title block on each submittal for identification. Indicate the name of the entity that prepared each submittal on the label or title block:

1. Project Name.
2. Date.

3. Name and address of Engineer.
  4. Name and address of Contractor.
  5. Name and address of subcontractor.
  6. Name and address of supplier.
  7. Name of manufacturer.
  8. Number and title of appropriate Specification Section.
  9. Drawing number and detail references, as appropriate.
- 1502.2.3 Submittal Transmittal: Package each submittal appropriately for transmittal and handling. Transmit each submittal from Contractor to Engineer using a transmittal form. Submittals received from sources other than the Contractor will be returned without action.
- 1502.2.3.1 On the transmittal, record relevant information and requests for data. Include Contractor's certification that information complies with Contract Document requirements.
- 1502.2.3.2 Transmittal Form: Use submittal forms included at the end of this section for transmittal of submittals.
- 1502.2.3.3 The CONTRACTOR shall submit all submittals as follows: 1 – OWNER; 2 – ENGINEER; 1 (or as required) – CONTRACTOR/Subcontractors, if hard copies are submitted. All complete submittals will be accepted via email. If physical examples of materials, equipment or workmanship are part of a submittal, they must be delivered to the ENGINEER by the CONTRACTOR.
- 1502.3 PRE-CONSTRUCTION PHOTOGRAPHS
- 1502.3.1 Prior to the date of the Notice to Proceed, the Contractor shall submit to Engineer photographs of the work areas and material storage areas. Photographs shall be taken along the center line of the proposed pipe trench or roadway and should capture all existing features of the sites such as mail boxes, curbing, lawns, driveways, signs, culverts, etc. As many photographs as is necessary shall be taken but as a minimum one photograph for every 50-feet of pipe trench and/or roadway is required. Each photograph shall have the date taken, a description, and sequential number (to follow pipe route) recorded on the back.



**SUPPLEMENTAL SPECIFICATIONS  
SECTION 1502-a  
SUBMITTAL FORM**

**CONTRACTOR SUBMITTAL FORM**

Project: City of Socorro Manzanares Avenue Street and Drainage Improvements	Contractor's Submittal No.:	Date:
	Dates of Previous Submissions:	
Contractor:	Specification No.:	
Supplier:	Drawing Nos.:	
Manufacturer:	Product Description:	
Are there any deviations to the CONTRACT DOCUMENTS? ____ No ____ Yes (Explain and identify. Include all above header information in attachments.)		
<p>CONTRACTOR'S CERTIFICATION: This submittal has been reviewed by the CONTRACTOR and it conforms to the requirements of the CONTRACT DOCUMENTS. Any deviations from the CONTRACT DOCUMENTS are identified above. If this is a resubmittal, any changes other than those specifically called for by the ENGINEER on previous submittals are specifically identified on the sheet(s) directly following this form.</p>		
<div style="display: flex; justify-content: space-between;"> <span>Signed: _____</span> <span>Date: _____</span> </div>		
Date Received by <b>DENNIS ENGINEERING COMPANY</b> :		Quantity Received:
<p><input type="checkbox"/> <b>REVIEWED</b> for general conformity with DRAWINGS and SPECIFICATIONS. Quantities shown not verified. CONTRACTOR'S full responsibility is in no way relieved by this action.</p> <p><input type="checkbox"/> <b>REVIEWED AND NOTED</b> for general conformity with DRAWINGS and SPECIFICATIONS. Quantities shown not verified. CONTRACTOR'S full responsibility is in no way relieved by this action.</p> <p><input type="checkbox"/> <b>REVIEWED AND NOT ACCEPTED.</b> Not in conformity with DRAWINGS and SPECIFICATIONS.</p> <p><input type="checkbox"/> <b>NOT REVIEWED.</b></p>		
<div style="display: flex; justify-content: space-between;"> <span>By: _____</span> <span>Date: _____</span> </div>		
Date Returned:		Quantity:
Engineer's Comments, if any:		
Engineer's Attachments, if any:		



DENNIS ENGINEERING COMPANY

City of Socorro				
Manzanares Avenue Street and Drainage Improvements				
SAMPLE Submittal Checklist		Date		
Submittal Description	Specification Reference #	Date Submitted	Date Resubmitted	Date Accepted
Base Course Gradation	303			
Base Course Fractured Faces	303			
Base Course LA Wear	303			
Base Course Atterberg Limits (AI, LL, and PI)	303			
Profile Measurement Device Calibration and Certification	401			
Technician Certification, Resumes and Work Experience.	401			
Asphalt Mix Design	423			
Class "A" Concrete Mix Design	510			
Class "AA" Concrete Mix Design	510			
SWPPP (Including TESCP)	603			
NPDES NOI (Contractor)	603			
NPDES NOI (Owner)	603			
NPDES NOT (Contractor)	603			
NPDES NOT (Owner)	603			
Concrete Joint sealing Material	609			
Barricading and Temporary Traffic Control	618			
Permanent Signing Post and Product Data	701			
Traffic Paint Product Data	704			
Contractor Quality Control Laboratory Qualifications and Certifications	906			
Contractor Quality Control Plan	906			
Contractor Quality Control Test Reports	906			
Construction Schedule	General Conditions			
Pre-construction Photographs/ Video Taping	Supplemental Conditions			

SUPPLEMENTAL PROVISIONS

**SECTION 1504**

**REQUEST FOR INFORMATION (RFI)**

1504.1 GENERAL

1504.1.1 Summary

1504.1.1.1 This Specification Section specified administrative and procedural requirements for handling and processing Requests for Information (RFI).

1504.1.1.2 RFI is intended for requesting clarifications and interpretations of Contract documents due to apparent inconsistencies, errors or omissions in Contract Documents, and due to unanticipated existing conditions.

1504.1.1.3 RFI is not intended for general communication, requesting substitutions, Contractor's proposed changes, resolution of nonconforming work, or coordination between contractors or for general questions not related to the Contract Documents.

1504.1.1.4 RFI process is intended to be a cooperative effort between Engineer and contractor to expedite responses to RFIs and maintain progress of Work without utilizing other lengthy procedures.

1504.1.1.5 Any other proposed method of processing RFIs other than indicated within this Specification Section shall be evaluated by Engineer for potential impact on Engineer's services.

1. If Engineer agrees to utilize another proposed method, Engineer will be reimbursed for any special training, usage fees, extra time required to implement, maintain, utilize and administer such a system.

1504.1.2 RFI Submittal Procedure

1504.1.2.1 All RFIs shall be submitted on the form attached to this Specification Section, or on mutually agreeable forms to be provided at the preconstruction meeting, and shall include all backup information.

1. Backup information shall include, but not be limited to Contractor verified field measurements, quantities, dimensions, installation requirements, materials, catalog number, and any other information that will assist the Owner in reviewing the RFI.

1504.1.2.2 Within ten (10) working days of receipt of RFI, Engineer will either return a response to the RFI or notify Contractor when a response will be issued.

1504.1.3 Commencement of RFI-Related Work

1504.1.3.1 No portion of the work requiring instruction from the Engineer shall begin until RFI has been reviewed by the Engineer and returned to Contractor with instruction or with notation indicating Engineer response is not necessary.

1504.2 PRODUCTS – (NOT APPLICABLE TO THIS SPECIFICATION)

1504.3 EXECUTION

1504.3.1 Requests for Information

1504.3.1.1 Review of Contract Documents and Field Conditions:

1. Before starting each portion of Work, contractor shall carefully study and compare various Drawings, Specifications and other Contract Documents, coordination drawings, Shop Drawings, prior correspondence or documentation relative to that portion of Work, as well as information furnished by Owner.
2. Contractor and Subcontractor shall evaluate and take field measurements of conditions related to that portion of Work and shall observe any conditions at the site affecting it.
3. These obligations are for purpose of facilitating coordination and construction by Contractor.
4. Any errors, inconsistencies or omissions discovered in Contract Documents shall be reported promptly to Engineer as a properly prepared and timely RFI.

1504.3.1.2 Contractor's and Subcontractor's Responsibilities:

1. When interpretation, clarification or explanation of a portion of the Construction Documents is needed by Contractor, Subcontractor, Vendor or Supplier, the request shall be processed through Contractor.
  - a. Review request for completeness, quality, proper referencing to Drawing or Specification Section, and reason submitted.
  - b. If request is not acceptable, it shall be returned to submitter with comments regarding reason for being returned.
  - c. Make every attempt to validate, resolve, or respond to RFI by thoroughly researching and reviewing Contract Documents and field conditions.
  - d. Respond to RFI accordingly if review of RFI discloses a response or is related to coordination of construction or other issue not related to Contract Documents.
  - e. If unable to respond to request, it shall be restated in a clear, concise, correct, complete and easily understood manner, rewritten if necessary, additionally information included if necessary, and only then submitted to Engineer for response.
2. Follow these procedures in developing an RFI:
  - a. List specific Contract Documents researched when seeking information being requested.
  - b. Reference all applicable Contract Drawings by sheet number, section, detail, room number, door number, etc.; Specifications by section and paragraph number; and reference any other relevant documents.
  - c. The field titled "Regarding" on attached RFI form must be clear for future reference in reports or correspondence.
  - d. Clearly state request and provide Contract Document referenced and any additional information needed so request can be fully understood, including sketches, photos or other reference material.

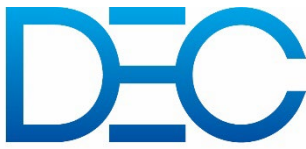
- e. Fully assess issues, suggest any reasonable solutions and include various factors, including potential costs, schedule impacts, if any, and recommendations which will aid in determining a solution or response.
    - i. If a reasonable solution cannot be suggested, a statement to that effect should be so stated.
  - f. Indicate reason request is being submitted.
  - g. Any critical RFIs requiring a rapid response shall clearly indicate such with an explanation as to why RFI is critical.
  - h. Priority for responses shall be indicated when multiple RFIs are submitted within a short period of time.
- 3. Copies of responses to RFIs shall be distributed to all parties affected.
  - 4. A response to RFI shall not be considered a notice to proceed with a change that may revise the Contract Sum or Contract Time, unless authorized by Owner in writing.
  - 5. If response to RFI is determined incomplete, it shall be resubmitted with reason response is unacceptable and any necessary additional information within five (5) days of time of receipt of response to RFI.

1504.3.1.3 RFI Submittal Numbering:

- 1. RFIs shall be assigned unique numbers in sequential order (1, 2, 3, 4, etc.).
- 2. A resubmitted RFI or a previously answered RFI requiring revising or further clarification shall be submitted using original RFI number followed by ".1" to indicate revision one of FRI (i.e.: RFI No. 34.1 is revision one to RFI No. 34).
- 3. Engineer may return RFI without response for following reasons:
  - a. Request is unclear or incomplete.
  - b. Detailed information no provided.
  - c. Is related to construction means, methods or techniques.
  - d. Is related to health or safety measures.
  - e. Is due to Contractor's lack of adequate coordination.
  - f. Is for coordination between Subcontractors.
  - g. Is considered a "Substitution Request."
  - h. Is considered a "Contractor Proposed Change."
  - i. Is due to non-conformance.
  - j. Response is required by another party.

**END OF SECTION**





DENNIS ENGINEERING COMPANY

## Request for Information Form

Contractor's RFI No.: \_\_\_\_\_ Engineer's RFI No.: \_\_\_\_\_

Contract: Manzanares Avenue Street and Drainage Improvements

Contractor: \_\_\_\_\_

Owner: City of Socorro Owner's Contract or ITB No.: \_\_\_\_\_

Engineer: DENNIS ENGINEERING COMPANY Engineer's Contract No.: 01233

THIS REQUEST BY: \_\_\_\_\_ Cc to: \_\_\_\_\_  
(Name of the Contractor's Representative)

REGARDING: \_\_\_\_\_

REFERENCE: DIVISION \_\_\_\_\_ SECTION \_\_\_\_\_ PLAN SHEET NO. \_\_\_\_\_

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ATTACHMENTS: \_\_\_\_\_  
\_\_\_\_\_

### CONTRACTOR'S CERTIFICATION:

The undersigned Contractor certifies that (1) due diligence was used to determine the intent of the contract documents prior to submitting the request; (2) Contractor has read and understood the provisions of Supplemental Provision 1504; and; (3) Contractor understands that once the Engineer provides a written response to a Contractor's RFI, that determination shall be final and binding on the Contractor unless the Contractor delivers to the Owner written notice of a change in the work within a certain period of time of receipt of that determination. See the General Conditions for further clarification.

Signature \_\_\_\_\_ Name and Title (Printed) \_\_\_\_\_ Date \_\_\_\_\_

INTERPRETATION BY: \_\_\_\_\_ Cc to: \_\_\_\_\_  
(Name of Engineer's Representative)

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ATTACHMENTS: \_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Name and Title (Printed) \_\_\_\_\_ Date \_\_\_\_\_



SUPPLEMENTAL PROVISIONS

**SECTION 1505**

**PROJECT SCHEDULE**

1505.1 GENERAL

1505.1.1 General Requirements

Contractor shall prepare and submit a detailed progress schedule to the Engineer for approval in accordance with the General Conditions.

If, in the opinion of the Engineer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress, which may require him to increase the number of shifts, and/or overtime operations, days of work, and/or the amount of construction planned, and to submit for approval such supplementary schedule or schedules as necessary to demonstrate the manner in which the agreed rate to progress will be regained, all without additional cost to the Owner.

1505.2 PRODUCTS (NOT USED)

1505.3 EXECUTION

1505.3.1 Contractor's Construction Schedule

1505.3.1.1 Schedule: The Contractor shall prepare a fully developed, CPM chart or spreadsheet type bar graph of the Contractor's construction schedule.

The scheduling of construction is the responsibility of the Contractor, and Contractor management personnel shall actively participate in development of the schedule so that intended sequences and procedures are clearly understood. An orderly progression of work is demonstrated by:

1. Provide a separate task for each significant construction activity. Use the same breakdown of units of the Work as indicated in the "Schedule of Values."
2. Coordinate the Contractor's construction schedule with the schedule of values, list of subcontracts, submittal schedule, progress reports, payment requests and other schedules.
3. The diagram shall show a continuous activity flow from left to right. The activity or event numbers, description, duration, and value shall be shown on the diagram.
4. Dates shall be shown on the diagram for start of the project, any milestones required by the contract, and contract completion.
5. The critical path shall be clearly identified.
6. Submittal, review, procurement, fabrication, delivery, installation, start-up, and testing of special or long lead-time materials and equipment shall be included in the schedule.
7. Other agency activities shall be shown. These include but are not limited to: notice to proceed, approvals, inspections, and utility tie in for phasing requirements.

- 1505.3.1.2 Work Stages: Indicate important stages of construction for each major portion of the Work, including testing and installation.
- 1505.3.1.3 A monthly meeting shall be conducted on site attended by the Contractor's project manager and appropriate Engineer's representatives. During this meeting, the Contractor will describe, on an activity by activity basis, all proposed revisions and adjustments to the schedule required to reflect the current status of the project. The Engineer's representative shall approve activity progress, proposed revisions and adjustments, and the use of any optional calculations. The following shall be addressed:
1. The actual start and actual finish dates for all activities in progress or completed as appropriate.
  2. The estimated remaining duration for each activity in progress. Progress calculations must be based on remaining duration for each activity.
- 1505.3.1.4 Following the monthly progress meeting, a complete update of the schedule based on the approved progress, revisions, and adjustments agreed upon at the meeting shall be computed and submitted along with the application for progress payment. This update shall be subject to approval of the accurate entry of information agreed upon at the meeting.
- 1505.3.1.5 In the event the Contractor requests an extension of the contract completion date for any other contractual reason, he shall furnish such justification as the Engineer may deem necessary for a determination of the Contractor's right to an extension of time under the provisions of the contract. In such event the schedule revisions shall clearly display that the Contractor has used in full all available float time for the work involved with the request. Actual delays that are found to be caused by the Contractor's own actions or lack of action and which result in the extension of the projected contract completion date shall not be a cause for extension of the contract completion date. The Owner may find cause to extend the contract completion date under the contract in the absence of a request by the Contractor when, in the Owner's judgement, it is equitable.

SUPPLEMENTAL PROVISIONS

**SECTION 1510**

**GENERAL REQUIREMENTS**

1510.1 GENERAL

This section describes general requirements in addition to those in the General Conditions that shall be met by the Contractor.

1510.2 AUTHORITY OF CONTRACTOR REPRESENTATIVE

1510.2.1 The site representative appointed by the Contractor and approved by the Engineer shall, as a minimum, have the authority to negotiate and execute Supplemental Agreements having a value up to \$5,000.00.

1510.3 AGE AND VALUE OF EQUIPMENT

1510.3.1 If requested by the Engineer, the Contractor shall provide documentation to establish the age and value of any equipment being utilized to perform the work under this contract.

1510.4 WORK SCHEDULE

1510.4.1 If the Contractor intends to work outside the normal 40-hour Monday through Friday work week, he shall notify the Engineer one full workday (Monday – Friday) in advance.

1510.5 SPECIFICATIONS

1510.5.1 The Contractor, or Contractor's representative shall at all times have in the field a copy of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction to utilize as a reference.

SUPPLEMENTAL PROVISIONS

**SECTION 1580**

**ALLOWANCES**

1580.1 GENERAL

These specifications provide the administrative and procedural requirements governing handling and processing allowances identified in the bid schedules, other contract documents and specifications, and the construction drawings.

1580.1.1 Related Documents

1. General Conditions
2. Supplementary Conditions
3. Section 1502
4. Related technical specifications

1580.1.2 Definitions

1580.1.2.1 Cash Allowance

An allowance that is included in the Bid Schedule(s) to compensate the Contractor for an undetermined amount of work to be completed as part of the construction of the project.

1580.1.2.2 Quality Assurance

An allowance that is included in the Bid Schedule(s) for a determined amount of work indicated in the Construction Drawings, Contract Documents, or Technical Specifications

1580.1.3 Submittals

1580.1.3.1 Cash Allowances

The following shall be submitted for Cash Allowances:

1. Product submittals in accordance with Section 1502 for the materials and equipment installed.
2. Invoices or delivery tickets indicating the amount of actual quantities delivered to the site in fulfillment of each allowance.
3. Other items required by the contract documents, technical specifications, and construction drawings, such as qualifications, contracts, or proposals.
4. The maximum allowance cost shall be indicated as required in the bid schedule(s) in the bid form.

1580.2 EXECUTION

1580.2.1 Allowances

1. Allowances shall cover the costs as identified in Section 1580.3 below.

2. Any allowance amounts not used during the duration of the project shall be deducted from the Contractor's contract amount at the end of the project via a deductive change order.
3. Allowances shall NOT exceed the amounts indicated in the bid schedule(s), unless a change order has been accepted by the Owner, Engineer, and funding agencies.

1580.3 SCHEDULE

Note: The following allowances shall be included in the Contractor's Base Bid:

1580.3.1 **Contractor's Quality Control Testing Allowance**

1580.3.1.1 Description

The Contractor shall include a cash allowance in the Bid Schedule(s), where required, an amount not to be exceeded for completing Quality Control Testing in accordance with Supplemental Provision 906. The amount of the allowance shall be determined by the Bidder.

1580.3.1.2 Payment Procedures

The measurement and payment for Contractor's Quality Control Testing allowance shall be in substantial conformance with Supplemental Specification 906 and will be made at the laboratory invoice plus 10%, not to exceed the amount bid.