

**2024 CIP PAVING PROJECTS**

**TOWN OF OLD ORCAHRD BEACH, ME**

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**BIDDING/CONTRACT DOCUMENTS  
AND TECHNICAL SPECIFICATIONS**

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**MAY 2024**

**21758**

**TOWN OF OLD ORCHARD BEACH, ME**

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AND TECHNICAL SPECIFICATIONS**

**FOR**

**2024 CIP PAVING PROJECTS**

**MAY 2024**



**Prepared By:**

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## TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>
<u>DIVISION 00 - PROCUREMENT AND CONTRACTING REQUIREMENTS</u>	
00100	Advertisement for Bids
00200	Instructions to Bidders for Construction Contract
00410	Bid Form for Construction Contract
00430	Bid Bond Penal Sum Form
00450	Qualifications Statement
00510	Notice of Award
00520	Agreement Between Owner and Contractor for Construction Contract Stipulated Price
00550	Notice to Proceed
00610	Performance Bond
00615	Payment Bond
00620	Application for Payment
00700	Standard General Conditions of the Construction Contract
00800 SC 1 to 19	Supplementary Conditions
00800 SC-36	Equal Opportunity Clause
00800 SC-38	Executive Order 11246
00800 SC-40	Certification of Nonsegregated Facilities
00800 SC-41	Labor Union Notice
00920	Certificate of Substantial Completion
00936	Consent of Surety to Final Payment
00937	Contractor's Affidavit
00938	Contractor's Release
00939	Waiver of Lien - Materials and Labor
00940	Work Change Directive
00941	Change Order

### DIVISION 01 - GENERAL REQUIREMENTS

01010B	Summary of Work (Horizontal)
01050	Coordination
01070	Abbreviations and Symbols
01150B	Measurement and Payment
01310	Construction Schedules
01400	Quality Control
01562	Dust Control
01570	Traffic Regulations

### DIVISION 02 - SITE CONSTRUCTION

02200	Earthwork
02270	Temporary Erosion Control
02485	Loaming & Seeding
02513A	Bituminous Concrete Paving (Maine)
02527	Bituminous Concrete Curbs
02577	Pavement Markings (Maine)

TABLE OF CONTENTS (CONT.)

SECTION

TITLE

APPENDICES

A	Road Reconstruction Figures
B	Roadway Details

SECTION 00100  
ADVERTISEMENT FOR BIDS

**TOWN OF OLD ORCHARD BEACH, MAINE**  
**2024 CIP PAVING PROJECTS**

**General Notice**

**The Town of Old Orchard Beach** (Owner) is requesting Bids for the construction of the following Project:  
**2024 CIP Paving Projects**

Bids for the construction of the Project will be received at the **Old Orchard Beach Town Hall – Office of the Town Manager** located at **1 Portland Avenue, Old Orchard Beach, ME, 04064**, until **May 23, 2024** at **2:00 PM** local time. At that time the Bids received will be **publicly** opened and read.

The Project includes the following Work:

**Strip and repave Temple Avenue at approximately 250 length feet (between West Grand Avenue and Seaside Avenue), and full depth reconstruction of Reggio Avenue at approximately 220 length feet (between West Grand Avenue and Seaside Avenue), Williams Street at approximately 285 length feet (off Temple Avenue), and Wilbur Avenue at approximately 305 length feet (between Melvin Avenue and Old Orchard Road) including removal of pavement and underlying material, new base and subbase gravels, new pavement surface, driveway pavement, new bituminous curb, and pavement striping. All work associated with the project shall not begin until after Labor Day.**

**Obtaining the Bidding Documents**

The Issuing Office is The Town of Old Orchard Beach. Information and Bidding Documents for the Project can be found at the following designated website: <https://www.oobmaine.com/bids/>

To be considered a responsive Bidder, the Bidder shall have obtained at least one set of Bidding Documents from the Issuing Office using the name that is to appear on the Bid Form. The designated website will be updated periodically with addenda, lists of plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website. It is the Bidder's responsibility to check the designated website for addenda.

**This Advertisement is issued by:**

Owner: **Town of Old Orchard Beach**  
By: **Diana Asanza**  
Title: **Town Manager**  
Date: **May 2, 2024**

END OF SECTION

SECTION 00200INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT**TABLE OF CONTENTS**

	<b>Page</b>
Article 1— Defined Terms.....	1
Article 2— Bidding Documents.....	1
Article 3— Qualifications of Bidders.....	2
Article 4— Pre-Bid Conference.....	3
Article 5— Site and Other Areas; Existing Site Conditions; Examination of Site; Owner’s Safety Program; Other Work at the Site.....	3
Article 6— Bidder’s Representations and Certifications.....	5
Article 7— Interpretations and Addenda.....	5
Article 8— Bid Security.....	5
Article 9— Contract Times.....	6
Article 10— Substitute and “Or Equal” Items.....	6
Article 11— Subcontractors, Suppliers, and Others.....	6
Article 12— Preparation of Bid.....	7
Article 13— Basis of Bid.....	8
Article 14— Submittal of Bid.....	9
Article 15— Modification and Withdrawal of Bid.....	9
Article 16— Opening of Bids.....	9
Article 17— Bids to Remain Subject to Acceptance.....	9
Article 18— Evaluation of Bids and Award of Contract.....	10
Article 19— Bonds and Insurance.....	11
Article 20— Signing of Agreement.....	11
Article 21— Sales and Use Taxes.....	11
Article 22— Contracts to Be Assigned.....	11
Article 23— Deletion of Items.....	11
Article 24— Federal Requirements – Not Used.....	11
Article 25— Special Legal Requirements – Not Used.....	11

**ARTICLE 1—DEFINED TERMS**

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

**ARTICLE 2—BIDDING DOCUMENTS**

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- ~~2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.~~
- ~~2.04 Bidder may register as a plan holder and obtain complete sets of Bidding Documents, in the number and format stated in the Advertisement or invitation to bid, from the Issuing Office. Bidders may rely that sets of Bidding Documents obtained from the Issuing Office are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.~~
- ~~2.05 Plan rooms (including construction information subscription services, and electronic and virtual plan rooms) may distribute the Bidding Documents, or make them available for examination. Those prospective bidders that obtain an electronic (digital) copy of the Bidding Documents from a plan room are encouraged to register as plan holders from the Bidding Documents Website or Issuing Office. Owner is not responsible for omissions in Bidding~~

~~Documents or other documents obtained from plan rooms, or for a Bidder's failure to obtain Addenda from a plan room.~~

2.06 *Electronic Documents*

- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.
  - 1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf). It is the intent of the Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.
- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.06.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.
- C. DELETED.

**ARTICLE 3—QUALIFICATIONS OF BIDDERS**

- 3.01 Deleted.
- 3.02 Deleted.
- 3.03 *Bidder is to submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work:*
  - A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments as outlined under Section 00450 – Qualifications Statement.
  - B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
  - C. Bidder's state or other contractor license number, if applicable.
  - D. Subcontractor and Supplier qualification information.
  - E. Other required information regarding qualifications.



- 3.04 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.05 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.06 To be considered a responsive Bidder, the Contractor shall have obtained at least one set of Bidding Documents from the Issuing Office. The Bid will not be awarded to a Bidder unless a record for obtaining at least one set of Bidding Documents exists in the Issuing Office. To meet this requirement and to establish the record of receipt, a prospective Bidder must obtain Bidding Documents using the name that is to appear on the Bid Form.

#### ARTICLE 4—PRE-BID CONFERENCE

- 4.01 DELETED.
- 4.02 DELETED.
- 4.03 DELETED.
- 4.04 DELETED.

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

##### 5.01 *Site and Other Areas*

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

##### 5.02 *Existing Site Conditions*

###### A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

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

as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

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

B. DELETED.

5.03 DELETED.

5.04 *Site Visit and Testing by Bidders*

- A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.
- B. DELETED.
- C. Bidders visiting the Site are required to arrange their own transportation to the Site.
- D. DELETED.
- E. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- F. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.
- G. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- H. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.05 *Owner's Safety Program*

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

5.06 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for

such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

## ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

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

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

## ARTICLE 7—INTERPRETATIONS AND ADDENDA

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Owner in writing. Contact information and submittal procedures for such questions are as follows:
  - A. **Chris White, Old Orchard Beach Wastewater/Public Works Superintendent**  
[cwhite@oobmaine.com](mailto:cwhite@oobmaine.com), 207-934-4416
- 7.03 Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven working days prior to the date for opening of Bids may not be answered. Addenda will be issued not later than five working days before the bid opening. Bidders are responsible for determining that they have received all Addenda issued.
- 7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

## ARTICLE 8—BID SECURITY

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

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

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

#### **ARTICLE 9—CONTRACT TIMES**

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

#### **ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS**

- 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Owner 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 Owner until after the Effective Date of the Contract or as specified elsewhere in the specification.
- 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, or 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 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

- 11.01 A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.

- 11.02 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed.
- 11.03 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 11.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.

## ARTICLE 12—PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
- B. ~~If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."~~
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.

- 12.06 A Bid by an individual must show the Bidder's name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.
- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

#### **ARTICLE 13—BASIS OF BID**

- 13.01 *Lump Sum with Unit Prices and Alternates*
- A. Bidders must submit a Bid on a lump sum basis for each lump sum item, and on a unit price basis for each unit price item of Work listed and described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.
  - 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 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.
  - D. The total of all unit price "Bid Prices" and all lump sum items will be used by Owner for Bid comparison purposes.
- 13.02 *DELETED.*

**ARTICLE 14—SUBMITTAL OF BID**

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

**ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID**

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

**ARTICLE 16—OPENING OF BIDS**

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

**ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

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

**ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner, then Owner will reject the Bid as nonresponsive.
- 18.04 DELETED.
- 18.05 *Evaluation of Bids*
- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
  - B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, Owner will announce to all bidders a “Base Bid plus alternates” budget after receiving all Bids, but prior to opening them. 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.
  - C. Deleted.
  - D. 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.
  - E. Deleted.
  - F. Deleted.
- 18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.



**ARTICLE 19—BONDS AND INSURANCE**

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

**ARTICLE 20—SIGNING OF AGREEMENT**

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

**ARTICLE 21—SALES AND USE TAXES**

- 21.01 Owner is exempt from Maine state sales and use taxes on materials and equipment to be incorporated in the Work. Said taxes must not be included in the Bid. Refer to Paragraph SC-7.10 of the Supplementary Conditions for additional information.

**ARTICLE 22—CONTRACTS TO BE ASSIGNED – NOT USED****ARTICLE 23—DELETION OF ITEMS**

- 23.01 Owner reserves the right to reduce project scope by the elimination of Bid items, reduction of quantities on unit price Bid items, or deleting elements of lump sum Bid items. No adjustment to other Bid items prices will be permitted. In the case of reduction of quantities on unit price items, the unit price will not be adjusted. Such adjustments to project scope will be determined prior to award of the Contract and will be negotiated with the apparent Successful Bidder only. If such negotiations are not satisfactory to Owner, Owner will reject all Bids.

**ARTICLE 24—FEDERAL REQUIREMENTS – NOT USED****ARTICLE 25—SPECIAL LEGAL REQUIREMENTS – NOT USED**

END OF SECTION

SECTION 00410BID FORM FOR CONSTRUCTION CONTRACT

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

**ARTICLE 1—OWNER AND BIDDER**

1.01 This Bid is submitted to:

**Town of Old Orchard Beach, 1 Portland Avenue, Old Orchard Beach, ME 04064**

**Project: 2024 CIP Paving Projects**

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

**ARTICLE 2—ATTACHMENTS TO THIS BID**

2.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such authority within the time for acceptance of Bids;
- E. Contractor's license number as evidence of Bidder's State Contractor's License or a covenant by Bidder to obtain said license within the time for acceptance of Bids;
- F. Required Bidder Qualification Statement with supporting data;

**ARTICLE 3—BASIS OF BID—LUMP SUM BID**

3.01 *Base Bid Items*

- A. Bidder will complete the Work in accordance with the Contract Documents for the following lump sum items.
- B. Bidder acknowledges that:
  1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
  2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents (estimated “\*”).

Item No.	Description	Unit	Quantity	Bid Unit Price	Bid Amount
1	Strip and Repave of Temple Avenue	Lump Sum	1	\$	\$
2	Full Depth Reconstruction of Reggio Avenue	Lump Sum	1	\$	\$
3	Full Depth Reconstruction of Williams Street	Lump Sum	1	\$	\$
4	Full Depth Reconstruction of Wilbur Ave	Lump Sum	1	\$	\$
Total Base Bid					\$

3.02 DELETED.

3.03 DELETED.

**ARTICLE 4—DELETED**

**ARTICLE 5—DELETED**

**ARTICLE 6—TIME OF COMPLETION**

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

**ARTICLE 7—BIDDER’S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA**

7.01 *Bid Acceptance Period*

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

7.02 *Instructions to Bidders*

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

7.03 *Receipt of Addenda*

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

Addendum Number	Addendum Date

## ARTICLE 8—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

### 8.01 *Bidder’s Representations*

- A. In submitting this Bid, Bidder represents the following:
1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
  2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work, including all American Iron and Steel requirements.
  4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
  6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder’s (Contractor’s) safety precautions and programs.
  7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
  9. Bidder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Owner is acceptable to Contractor.
  10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
  11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

8.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
  - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
  - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
  - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
  - d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

BIDDER hereby submits this Bid as set forth above:

Bidder:

\_\_\_\_\_  
*(typed or printed name of organization)*

By: \_\_\_\_\_  
*(individual's signature)*

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

Title: \_\_\_\_\_  
*(typed or printed)*

Date: \_\_\_\_\_  
*(typed or printed)*

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

Attest: \_\_\_\_\_  
*(individual's signature)*

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

Title: \_\_\_\_\_  
*(typed or printed)*

Date: \_\_\_\_\_  
*(typed or printed)*

Address for giving notices:

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

Bidder's Contact:

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

Title: \_\_\_\_\_  
*(typed or printed)*

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

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

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

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

END OF SECTION

SECTION 00430

BID BOND (PENAL SUM FORM)

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

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.

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

END OF SECTION



SECTION 00450QUALIFICATIONS STATEMENT**ARTICLE 1—GENERAL INFORMATION**

1.01 Provide contact information for the Business:

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

1.02 Provide information on the Business's organizational structure:

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

1.03 Provide information regarding the Business’s officers, partners, and limits of authority.

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

**ARTICLE 2—LICENSING**

2.01 Provide information regarding licensure for Business:

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

**ARTICLE 3—DIVERSE BUSINESS CERTIFICATIONS**

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

Certification	Certifying Agency	Certification Date
<input type="checkbox"/> Disadvantaged Business Enterprise		
<input type="checkbox"/> Minority Business Enterprise		
<input type="checkbox"/> Woman-Owned Business Enterprise		
<input type="checkbox"/> Small Business Enterprise		
<input type="checkbox"/> Disabled Business Enterprise		
<input type="checkbox"/> Veteran-Owned Business Enterprise		
<input type="checkbox"/> Service-Disabled Veteran-Owned Business		
<input type="checkbox"/> HUBZone Business (Historically Underutilized) Business		
<input type="checkbox"/> Other		
<input type="checkbox"/> None		

**ARTICLE 4—SAFETY**

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

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

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

Year									
Company	EMR	TRFR	MH	EMR	TRFR	MH	EMR	TRFR	MH

**ARTICLE 5—FINANCIAL**

5.01 Provide information regarding the Business’s financial stability. If required in the “Submit” check box below, provide a copy of the most recent audited financial statement, and if such audited financial statement is not current, also provide the most current financial statement.

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

**ARTICLE 6—SURETY INFORMATION**

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

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

**ARTICLE 7—INSURANCE**

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

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

**ARTICLE 8—CONSTRUCTION EXPERIENCE**

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

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

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

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

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

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

8.05 DELETED

**ARTICLE 9—REQUIRED ATTACHMENTS**

9.01 Provide the following information with the Statement of Qualifications:

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

- E. Attachments providing additional information as required by Paragraph 8.02.
- F. Schedule A (Current Projects) as required by Paragraph 8.03.
- G. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 8.04.
- H. Schedule C DELETED
- I. Additional items as pertinent.

This Statement of Qualifications is offered by:

Business: \_\_\_\_\_  
*(typed or printed name of organization)*

By: \_\_\_\_\_  
*(individual's signature)*

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

Title: \_\_\_\_\_  
*(typed or printed)*

Date: \_\_\_\_\_  
*(date signed)*

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

Attest: \_\_\_\_\_  
*(individual's signature)*

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

Title: \_\_\_\_\_  
*(typed or printed)*

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

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

Title: \_\_\_\_\_  
*(typed or printed)*

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

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

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

**Schedule A—Current Projects**

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

**Schedule B—Previous Experience with Similar Projects**

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

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

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



**Schedule B—Previous Experience with Similar Projects**

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

SECTION 00510

NOTICE OF AWARD

Date of Issuance:  
Owner:  
Engineer:  
Project:  
Contract Name:  
Bidder:  
Bidder's Address:

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

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

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

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

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

Drawings will be delivered separately from the other Contract Documents.

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

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

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

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

Owner: [Full formal name of Owner]  
 By (signature): \_\_\_\_\_  
 Name (printed): \_\_\_\_\_  
 Title: \_\_\_\_\_

END OF SECTION

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

This Agreement is by and between **The Town of Old Orchard Beach** (“Owner”) and **[name of contracting entity]** (“Contractor”).

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

Owner and Contractor hereby agree as follows:

**ARTICLE 1—WORK**

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Strip and repave Temple Avenue at approximately 250 length feet (between West Grand Avenue and Seaside Avenue), and full depth reconstruction of Reggio Avenue at approximately 220 length feet (between West Grand Avenue and Seaside Avenue), Williams Street at approximately 285 length feet (off Temple Avenue), and Wilbur Avenue at approximately 305 length feet (between Melvin Avenue and Old Orchard Road) including removal of pavement and underlying material, new base and subbase gravels, new pavement surface, driveway pavement, new bituminous curb, and pavement striping.**

**ARTICLE 2—THE PROJECT**

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2024 CIP Paving Projects**

**ARTICLE 3—ENGINEER**

- 3.01 DELETED.  
3.02 DELETED.

**ARTICLE 4—CONTRACT TIMES**

- 4.01 *Time is of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Dates*
- A. The Work will be substantially complete on or before **September 27, 2024**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **October 15, 2024**.

4.03 DELETED.

4.04 DELETED.

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
  3. DELETED.
  4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

**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 Owner as provided in the General Conditions.

**6.02 *Progress Payments; Retainage***

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the last 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. 90 percent of the value of the Work completed (with the balance being retainage).

1) DELETED.

- b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion of the entire construction to be provided under the Contract Documents, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 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 Owner's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

**6.03 *Final Payment***

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

1. The final 2 percent of the value of the Work shall be retained for a period of one year from the date of Substantial Completion.

6.04 *Consent of Surety*

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

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of **prime plus 2** percent per annum.

**ARTICLE 7—CONTRACT DOCUMENTS**

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
  2. Bonds:
    - a. Performance bond (together with power of attorney).
    - b. Payment bond (together with power of attorney).
  3. General Conditions.
  4. Supplementary Conditions.
  5. Specifications as listed in the table of contents of the project manual (copy of list attached).
  6. DELETED.
  7. Addenda (numbers **[number]** to **[number]**, inclusive).
  8. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid
    - b. **[list exhibits]**
  9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
    - d. Field Orders.
    - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## **ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

### **8.01 Contractor's Representations**

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
  2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
  6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
  7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
  9. Contractor has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of

discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Owner is acceptable to Contractor.

10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### 8.02 *Contractor's Certifications*

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

#### 8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.-

#### 8.04 DELETED.

### **ARTICLE 9—MISCELLANEOUS – DELETED**



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

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

This Agreement will be effective on **[indicate date on which Contract becomes effective]** (which is the Effective Date of the Contract).

Owner:

Contractor:

\_\_\_\_\_  
*(typed or printed name of organization)*

\_\_\_\_\_  
*(typed or printed name of organization)*

By: \_\_\_\_\_  
*(individual's signature)*

By: \_\_\_\_\_  
*(individual's signature)*

Date: \_\_\_\_\_  
*(date signed)*

Date: \_\_\_\_\_  
*(date signed)*

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

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

Title: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

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

Attest: \_\_\_\_\_  
*(individual's signature)*

Attest: \_\_\_\_\_  
*(individual's signature)*

Title: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Designated Representative:

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

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

Title: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

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

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

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

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

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

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

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

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

State: \_\_\_\_\_

SECTION 00550NOTICE TO PROCEED

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

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [date Contract Times are to start] pursuant to Paragraph 4.01 of the General Conditions.

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

In accordance with the Agreement: [Select one of the following two alternatives, insert dates or number of days, and delete the other alternative.]

The date by which Substantial Completion must be achieved is [date for Substantial Completion, from Agreement], and the date by which readiness for final payment must be achieved is [date for readiness, from Agreement].

[or]

The number of days to achieve Substantial Completion is [number of days, from Agreement] from the date stated above for the commencement of the Contract Times, resulting in a date for Substantial Completion of [date, calculated from commencement date above]; and the number of days to achieve readiness for final payment is [number of days, from Agreement] from the commencement date of the Contract Times, resulting in a date for readiness for final payment of [date, calculated from commencement date above].

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

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

Owner: \_\_\_\_\_ [Full formal name of Owner]

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

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

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

Copy: Engineer

END OF SECTION

SECTION 00610

PERFORMANCE BOND

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

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

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

14. Definitions

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

END OF SECTION

SECTION 00615

PAYMENT BOND

<p><b>Contractor</b>                  Name: [Full formal name of Contractor]                  Address (<i>principal place of business</i>):                  [Address of Contractor's principal place of business]</p>	<p><b>Surety</b>                  Name: [Full formal name of Surety]                  Address (<i>principal place of business</i>):                  [Address of Surety's principal place of business]</p>
<p><b>Owner</b>                  Name: [Full formal name of Owner]                  Mailing address (<i>principal place of business</i>):                  [Address of Owner's principal place of business]</p>	<p><b>Contract</b>                  Description (<i>name and location</i>):                  [Owner's project/contract name, and location of the project]                   Contract Price: [Amount, from Contract]                  Effective Date of Contract: [Date, from Contract]</p>
<p><b>Bond</b>                  Bond Amount: [Amount]                  Date of Bond: [Date]                  (<i>Date of Bond cannot be earlier than Effective Date of Contract</i>)                  Modifications to this Bond form:  <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal</p>	<p>Surety</p>
<p>(<i>Full formal name of Contractor</i>)</p>	<p>(<i>Full formal name of Surety</i>) (<i>corporate seal</i>)</p>
<p>By: _____                  (<i>Signature</i>)</p>	<p>By: _____                  (<i>Signature</i>)(<i>Attach Power of Attorney</i>)</p>
<p>Name: _____                  (<i>Printed or typed</i>)</p>	<p>Name: _____                  (<i>Printed or typed</i>)</p>
<p>Title: _____</p>	<p>Title: _____</p>
<p>Attest: _____                  (<i>Signature</i>)</p>	<p>Attest: _____                  (<i>Signature</i>)</p>
<p>Name: _____                  (<i>Printed or typed</i>)</p>	<p>Name: _____                  (<i>Printed or typed</i>)</p>
<p>Title: _____</p>	<p>Title: _____</p>
<p><i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i></p>	

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



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

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

END OF SECTION

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

## APPLICATION FOR PAYMENT

Prepared By



Endorsed By



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Contractor's Application for Payment

Owner: _____	Owner's Project No.: _____
Engineer: _____	Engineer's Project No.: _____
Contractor: _____	Contractor's Project No.: _____
Project: _____	
Contract: _____	
Application No.: _____	Application Date: _____
Application Period: From _____ to _____	

1. Original Contract Price	\$	-
2. Net change by Change Orders	\$	-
3. Current Contract Price (Line 1 + Line 2)	\$	-
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)	\$	-
5. Retainage		
a. _____ X \$ - Work Completed	\$	-
b. _____ X \$ - Stored Materials	\$	-
c. Total Retainage (Line 5.a + Line 5.b)	\$	-
6. Amount eligible to date (Line 4 - Line 5.c)	\$	-
7. Less previous payments (Line 6 from prior application)		
8. Amount due this application	\$	-
9. Balance to finish, including retainage (Line 3 - Line 4)	\$	-

**Contractor's Certification**

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: \_\_\_\_\_

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

<p>Recommended by Engineer</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>Approved by Owner</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>Approved by Funding Agency</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>



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

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

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

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

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

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

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

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 Defined Terms

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

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- requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
  - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
  - d. A demand for money or services by a third party is not a Claim.
- 11. Constituent of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
  - 12. Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
  - 13. Contract Documents—Those items so designated in the Agreement, and which together comprise the Contract.
  - 14. Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
  - 15. Contract Times—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
  - 16. Contractor—The individual or entity with which Owner has contracted for performance of the Work.
  - 17. Cost of the Work—See Paragraph 13.01 for definition.
  - 18. Drawings—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
  - 19. Effective Date of the Contract—The date, indicated in the Agreement, on which the Contract becomes effective.
  - 20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
  - 21. Electronic Means—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. Engineer—The individual or entity named as such in the Agreement.
23. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. Hazardous Environmental Condition—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
  - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
  - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
  - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. Liens—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. Milestone—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. Notice of Award—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. Notice to Proceed—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. Owner—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. Progress Schedule—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. Project—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.



33. Resident Project Representative—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. Schedule of Submittals—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
36. Schedule of Values—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
37. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. Site—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. Specifications—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. Submittal—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.

43. Successful Bidder—The Bidder to which the Owner makes an award of contract.
44. Supplementary Conditions—The part of the Contract that amends or supplements these General Conditions.
45. Supplier—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. Technical Data
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
  - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
  - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. Unit Price Work—Work to be paid for on the basis of unit prices.
49. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
50. Work Change Directive—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. Intent of Certain Terms or Adjectives: The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. Day: The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- D. Defective: The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
  2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  3. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. Furnish, Install, Perform, Provide
1. The word "furnish," when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  2. The word "install," when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  3. The words "perform" or "provide," when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. Contract Price or Contract Times: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2—PRELIMINARY MATTERS

### 2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance

- A. Performance and Payment Bonds: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. Evidence of Contractor’s Insurance: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. Evidence of Owner’s Insurance: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 Copies of Documents

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

### 2.03 Before Starting Construction

- A. Preliminary Schedules: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
  - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  - 2. a preliminary Schedule of Submittals; and
  - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 Preconstruction Conference; Designation of Authorized Representatives

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

2.05 Acceptance of Schedules

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

2.06 Electronic Transmittals

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

## ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

### 3.01 Intent

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
  - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
  - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

### 3.02 Reference Standards

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

inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

### 3.03 Reporting and Resolving Discrepancies

#### A. Reporting Discrepancies

1. Contractor's Verification of Figures and Field Measurements: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. Contractor's Review of Contract Documents: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

#### B. Resolving Discrepancies

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

### 3.04 Requirements of the Contract Documents

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 Reuse of Documents

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

## ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

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

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

### 4.02 Starting the Work

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

### 4.03 Reference Points

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the



established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

#### 4.04 Progress Schedule

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
  - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 Delays in Contractor's Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  - 2. Abnormal weather conditions;
  - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
  - 4. Acts of war or terrorism.

- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
  2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
  3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
  2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
  3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
  4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
  5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

## ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

### 5.01 Availability of Lands

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

## 5.02 Use of Site and Other Areas

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. Removal of Debris During Performance of the Work: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
  - C. Cleaning: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment

and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

### 5.03 Subsurface and Physical Conditions

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

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
3. Technical Data contained in such reports and drawings.

- B. Underground Facilities: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

- C. Reliance by Contractor on Technical Data: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

- D. Limitations of Other Data and Documents: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 5.04 Differing Subsurface or Physical Conditions

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

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

- B. Engineer's Review: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. Owner's Statement to Contractor Regarding Site Condition: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. Early Resumption of Work: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. Possible Price and Times Adjustments
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in

Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
  - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
  - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
- a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
  - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
  - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. Underground Facilities; Hazardous Environmental Conditions: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

#### 5.05 Underground Facilities

- A. Contractor's Responsibilities: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  2. complying with applicable state and local utility damage prevention Laws and Regulations;

3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. Notice by Contractor: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. Engineer's Review: Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
  2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
  3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
  4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. Owner's Statement to Contractor Regarding Underground Facility: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. Early Resumption of Work: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- F. Possible Price and Times Adjustments
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown

or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
  - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
  - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
  3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
  4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

#### 5.06 Hazardous Environmental Conditions at Site

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

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

##### B. Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures



- of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 6—BONDS AND INSURANCE

### 6.01 Performance, Payment, and Other Bonds

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or

Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

#### 6.02 Insurance—General Provisions

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by

- Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
  - F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
  - G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
  - H. Contractor shall require:
    - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
    - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
  - I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
  - J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
  - K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

#### 6.03 Contractor's Insurance

- A. Required Insurance: Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. General Provisions: The policies of insurance required by this Paragraph 6.03 as supplemented must:
  - 1. include at least the specific coverages required;
  - 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
  - 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
  - 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
  - 5. include all necessary endorsements to support the stated requirements.
- C. Additional Insureds: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
  - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
  - 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
  - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);

4. not seek contribution from insurance maintained by the additional insured; and
5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

#### 6.04 Builder's Risk and Other Property Insurance

- A. **Builder's Risk:** Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. **Property Insurance for Facilities of Owner Where Work Will Occur:** Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. **Property Insurance for Substantially Complete Facilities:** Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. **Partial Occupancy or Use by Owner:** If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. **Insurance of Other Property; Additional Insurance:** If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

#### 6.05 Property Losses; Subrogation

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against

Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
  2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

#### 6.06 Receipt and Application of Property Insurance Proceeds

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

### ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

#### 7.01 Contractor's Means and Methods of Construction

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

#### 7.02 Supervision and Superintendence

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

#### 7.03 Labor; Working Hours

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



- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

#### 7.04 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 7.05 "Or Equals"

- A. Contractor's Request; Governing Criteria: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
      - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

- 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
  - 3) has a proven record of performance and availability of responsive service; and
  - 4) is not objectionable to Owner.
- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
  - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. Contractor's Expense: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. Engineer's Evaluation and Determination: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. Effect of Engineer's Determination: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. Treatment as a Substitution Request: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 Substitutes

- A. Contractor's Request; Governing Criteria: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
  2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
  - a. will certify that the proposed substitute item will:
    - 1) perform adequately the functions and achieve the results called for by the general design;
    - 2) be similar in substance to the item specified; and
    - 3) be suited to the same use as the item specified.
  - b. will state:
    - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
    - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
    - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
  - c. will identify:
    - 1) all variations of the proposed substitute item from the item specified; and
    - 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. Engineer's Evaluation and Determination: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. Reimbursement of Engineer's Cost: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. Contractor's Expense: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. Effect of Engineer's Determination: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

#### 7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

#### 7.08 Patent Fees and Royalties

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

Work of any invention, design, process, product, or device not specified in the Contract Documents.

#### 7.09 Permits

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

#### 7.10 Taxes

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

#### 7.11 Laws and Regulations

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

#### 7.12 Record Documents

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

to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

### 7.13 Safety and Protection

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

#### 7.14 Hazard Communication Programs

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

#### 7.15 Emergencies

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

#### 7.16 Submittals

- A. Shop Drawing and Sample Requirements
  - 1. Before submitting a Shop Drawing or Sample, Contractor shall:
    - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
    - b. determine and verify:
      - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
      - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
      - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
    - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.



2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
  3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. Submittal Procedures for Shop Drawings and Samples: Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. Shop Drawings
    - a. Contractor shall submit the number of copies required in the Specifications.
    - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
  2. Samples
    - a. Contractor shall submit the number of Samples required in the Specifications.
    - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
  3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. Engineer's Review of Shop Drawings and Samples
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

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

E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
  - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
  - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.

- c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
  - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

#### 7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
  - 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
  - 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  - 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  - 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
  - 1. Observations by Engineer;
  - 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
  - 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  - 4. Use or occupancy of the Work or any part thereof by Owner;
  - 5. Any review and approval of a Shop Drawing or Sample submittal;

6. The issuance of a notice of acceptability by Engineer;
  7. The end of the correction period established in Paragraph 15.08;
  8. Any inspection, test, or approval by others; or
  9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### 7.19 Delegation of Professional Design Services

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.

- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
  - 1. Checking for conformance with the requirements of this Paragraph 7.19;
  - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
  - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## ARTICLE 8—OTHER WORK AT THE SITE

### 8.01 Other Work

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate

with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 Coordination

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

#### 8.03 Legal Relationships

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price

- will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
    - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
    - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
  - C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## ARTICLE 9—OWNER'S RESPONSIBILITIES

### 9.01 Communications to Contractor

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

### 9.02 Replacement of Engineer

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

### 9.03 Furnish Data

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

- 9.04 Pay When Due
- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.
- 9.05 Lands and Easements; Reports, Tests, and Drawings
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 Insurance
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 Change Orders
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 Inspections, Tests, and Approvals
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 Limitations on Owner's Responsibilities
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 Undisclosed Hazardous Environmental Condition
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 Evidence of Financial Arrangements
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 Safety Programs
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.



## ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

### 10.01 Owner's Representative

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

### 10.02 Visits to Site

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

### 10.03 Resident Project Representative

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

### 10.04 Engineer's Authority

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.

- E. Engineer's authority as to Applications for Payment is set forth in Article 15.
- 10.05 Determinations for Unit Price Work
- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.
- 10.06 Decisions on Requirements of Contract Documents and Acceptability of Work
- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- 10.07 Limitations on Engineer's Authority and Responsibilities
- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
  - B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
  - C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
  - D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
  - E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.
- 10.08 Compliance with Safety Program
- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

## ARTICLE 11—CHANGES TO THE CONTRACT

### 11.01 Amending and Supplementing the Contract

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

### 11.02 Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
  - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

### 11.03 Work Change Directives

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

- B. If Owner has issued a Work Change Directive and:
  - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
  - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

#### 11.04 Field Orders

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

#### 11.05 Owner-Authorized Changes in the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.06 Unauthorized Changes in the Work

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

#### 11.07 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
  2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
  3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. Contractor's Fee: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
  2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
    - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
    - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
    - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
    - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

## 11.08 Change of Contract Times

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

## 11.09 Change Proposals

- A. Purpose and Content: Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.
- B. Change Proposal Procedures
  - 1. Submittal: Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
  - 2. Supporting Data: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
    - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
    - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

- 3. Engineer's Initial Review: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
- 4. Engineer's Full Review and Action on the Change Proposal: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change

Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. Binding Decision: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. Resolution of Certain Change Proposals: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. Post-Completion: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

#### 11.10 Notification to Surety

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

### ARTICLE 12—CLAIMS

#### 12.01 Claims

- A. Claims Process: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
  1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
  3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
  4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge

and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. Review and Resolution: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. Mediation
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
  - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. Partial Approval: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. Denial of Claim: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. Final and Binding Results: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

### 13.01 Cost of the Work

- A. Purposes for Determination of Cost of the Work: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  - 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or



2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. Costs Included: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
  3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
  4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
  5. Other costs consisting of the following:
    - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
    - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

- 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
- c. Construction Equipment Rental
- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
  - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
  - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
  - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
  - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. Costs Excluded: The term Cost of the Work does not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
  - 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
  - 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
  - 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  - 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
  - 6. Expenses incurred in preparing and advancing Claims.
  - 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. Contractor's Fee
- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
    - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
    - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
      - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
      - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
  - 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change

Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. Documentation and Audit: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

### 13.02 Allowances

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

### 13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision

thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. Adjustments in Unit Price

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
  - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

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

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  3. by manufacturers of equipment furnished under the Contract Documents;
  4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 Defective Work

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

losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 Acceptance of Defective Work

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

#### 14.05 Uncovering Work

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

#### 14.06 Owner May Stop the Work

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work,

or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

#### 14.07 Owner May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

#### 15.01 Progress Payments

- A. Basis for Progress Payments: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. Applications for Payments
  1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation



establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work;
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
  - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

#### D. Payment Becomes Due

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

#### E. Reductions in Payment by Owner

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. The Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. The Contract Price has been reduced by Change Orders;
  - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
  - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
  - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

#### 15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

#### 15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time

submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 Partial Use or Occupancy

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without

significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

#### 15.05 Final Inspection

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

#### 15.06 Final Payment

##### A. Application for Payment

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

- d. a list of all duly pending Change Proposals and Claims; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. Engineer's Review of Final Application and Recommendation of Payment: If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. Notice of Acceptability: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. Completion of Work: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. Final Payment Becomes Due: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 Waiver of Claims

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim,

appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 Correction Period

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such adjacent areas;
  - 2. correct such defective Work;
  - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

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

## ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

### 16.01 Owner May Suspend Work

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

### 16.02 Owner May Terminate for Cause

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects,



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

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

#### 16.03 Owner May Terminate for Convenience

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

#### 16.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The

provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## ARTICLE 17—FINAL RESOLUTION OF DISPUTES

### 17.01 Methods and Procedures

- A. Disputes Subject to Final Resolution: The following disputed matters are subject to final resolution under the provisions of this article:
  - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
  - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. Final Resolution of Disputes: For any dispute subject to resolution under this article, Owner or Contractor may:
  - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
  - 2. agree with the other party to submit the dispute to another dispute resolution process; or
  - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## ARTICLE 18—MISCELLANEOUS

### 18.01 Giving Notice

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
  - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
  - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
  - 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

### 18.02 Computation of Times

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

### 18.03 Cumulative Remedies

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

### 18.04 Limitation of Damages

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

### 18.05 No Waiver

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

### 18.06 Survival of Obligations

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

### 18.07 Controlling Law

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

### 18.08 Assignment of Contract

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

### 18.09 Successors and Assigns

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

### 18.10 Headings

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

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement EJCDC® C-700, Standard General Conditions of the Construction Contract (2018). The General Conditions remain in full force and effect except as amended.

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

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, "Paragraph SC-4.05."

### CONTENTS OF SUPPLEMENTARY CONDITIONS

<u>Section No.</u>	<u>Section Title</u>	<u>Page No.</u>
SC-1 to SC-18	Supplementary Conditions Amendments to General Conditions	00800-1
SC-19	Federal Provisions	SC-19
SC-36	SC-36 Equal Opportunity Clause	SC-36
SC-38	SC-38 Executive Order 11246	SC-38
SC-40	SC-40 Certification of Non-Segregated Facilities	SC-40
SC-41	SC-41 Notice to Labor Unions	SC-41

### ARTICLE 1—DEFINITIONS AND TERMINOLOGY

#### 1.01 *Defined Terms*

##### SC-1.01.A.3 APPLICATION FOR PAYMENT

Add the following language to the end of Paragraph 1.01.A.3:

The Application for Payment form to be used on this Project is EJCDC No. C-620 or similar approved format.

##### SC-1.01.A.8 CHANGE ORDER

Add the following language to the end of Paragraph 1.01.A.8:

The Change Order form to be used on this Project is EJCDC No. C-941.

## SC-1.01 A.30 OWNER

Add the following to the end of Paragraph 1.01.A.30 of the General Conditions:

Owner is referred to as Grantee in certain sections of these Contract Documents. Owner and Grantee are one and the same.

## SC-1.01 A.50 WORK CHANGE DIRECTIVE

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

The Work Change Directive form to be used on this Project is EJCDC C-940 (2018). A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.

## SC-1.01 A.53 NON-RESIDENT CONTRACTOR

Add the following paragraph immediately after Paragraph 1.01.A.52 of the General Conditions, which is to read as follows:

53. Non-Resident Contractor -
- a. A person who is not a resident in the State where the proposed construction is to be located, or
  - b. Any partnership that has no member thereof resident in the State where the proposed construction is to be located.
  - c. Any corporation established under laws other than those of the State in which the proposed construction is located.

**ARTICLE 2—PRELIMINARY MATTERS**2.01 *Delivery of Bonds and Evidence of Insurance*

Add a new paragraph immediately after Paragraph 2.01.C of the General Conditions, which is to read as follows:

- D. *Non-Resident Contractor:* The Contractor, if a corporation established under laws other than the State in which the proposed construction is located, shall file with the Owner, notice of the name of its resident attorney, appointed as required by the laws of the State in which the proposed construction is located. The Contractor, if a resident of a State other than that in which the proposed construction is located and not a corporation, shall file, at the time of execution of the Agreement, with the Owner a written appointment of a resident of the State in which the construction is located, having an office or place of business therein, to be his/her true and lawful attorney upon whom all lawful processes in any actions or proceedings against him/her may be served; and in such writing, which shall set forth said attorney's place of residence, shall agree that any lawful process against him/her which is served on said attorney shall be of the same legal force and validity as if served on him/her and that the authority shall continue in force so long as any liability remains outstanding against him/her in said State. The power of attorney shall be filed in the office of the Secretary of State if required, and copies certified by the Secretary shall be sufficient evidence thereof. Such appointment shall continue in force until revoked by an instrument in writing, designating in a like manner some other person

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

upon whom such processes may be served, which instrument shall be filed in the manner provided herein for the original appointment.

## 2.02 *Copies of Documents*

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

- A. Owner shall furnish to Contractor one printed copy of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.

## 2.06 *Electronic Transmittals*

SC-2.06 Delete Paragraphs 2.06.B and 2.06.C in their entirety and insert the following in their place:

- B. *Electronic Documents Protocol*: The parties shall conform to the following provisions in Paragraphs 2.06.B and 2.06.C, together referred to as the Electronic Documents Protocol (“EDP” or “Protocol”) for exchange of electronic transmittals.

### 1. *Basic Requirements*

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents in an electronic or digital format using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Contract.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Contract Documents.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between a party and any third party for any portion of the Work on the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with a party. Nothing herein will modify the requirements of the Contract regarding communications between and among the parties and their subcontractors and consultants.
- e. When transmitting Electronic Documents, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving party’s use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT  
applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of Paragraph 18.01 of the General Conditions.

2. *System Infrastructure for Electronic Document Exchange*

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions (“System Infrastructure”) at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP, and any explicit system requirements specified by attachment to this EDP, it is the obligation of each party to determine, for itself, its own System Infrastructure.
  - 1) The maximum size of an email attachment for exchange of Electronic Documents under this EDP is 10 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
  - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology (“IT”) for maintaining operations of its System Infrastructure during the Project, including coordination with the party’s individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it shall not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties shall cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Contractor, not reasonably anticipated under the original EDP, Contractor may seek an adjustment in price or time under the appropriate process in the Contract.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of the contract under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the parties may rely for document archiving

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT during the specified term of operation of such Project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of Project documents after the term of the Contract, or after termination of the Project document archive, if one is established, for as long as required by the Contract and as each party deems necessary for its own purposes.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

### **ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

#### **3.02 Standards Specifications, Codes, Laws and Regulations**

SC-3.02.A Add the following paragraphs immediately following *Paragraph 3.02.A.2*:

- 3. If referenced documents have been discontinued by the issuing organization, references to those documents shall mean the replacement documents issued or otherwise identified by that organization or, if there are no replacement documents, the last version of the document before it was discontinued.
- 4. Where the date of a reference standard is provided, reference shall be to the version of the reference standard associated with that date, regardless if the reference standard has been superseded by a version with a later date, discontinued, or replaced.”

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

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

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

- 5. *Weather-Related Delays*
  - a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled. Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered abnormal weather conditions. Requests for time extensions due to abnormal weather conditions will be submitted to the Owner within five days of the end of the abnormal weather condition event.



**ARTICLE 5—SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS**

5.03 *Subsurface and Physical Conditions*

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely: **[If there are no such reports, so indicate in the table, but do not delete the table.]**

Report Title	Date of Report	Technical Data
N/A	N/A	N/A

- F. The following table lists the drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely: **[If there are no such drawings, so indicate in the table, but do not delete the table.]**

Drawings Title	Date of Drawings	Technical Data
N/A	N/A	N/A

5.06 *Hazardous Environmental Conditions*

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely:

Report Title	Date of Report	Technical Data
N/A	N/A	N/A

5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely: **[If there are no such drawings, so indicate in the table]**

Drawings Title	Date of Drawings	Technical Data
N/A	N/A	N/A

**ARTICLE 6—BONDS AND INSURANCE**6.01 *Performance, Payment, and Other Bonds*

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

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

6.03 *Contractor's Insurance*

SC-6.03 Supplement Paragraph 6.03 with the following provisions after Paragraph 6.03.C:

D. DELETED.

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

<b>Workers' Compensation and Related Policies</b>	<b>Policy limits of not less than:</b>
<b>Workers' Compensation</b>	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
<b>Jones Act (if applicable)</b>	
Bodily injury by accident—each accident	-
Bodily injury by disease—aggregate	-
<b>Employer's Liability</b>	
Each accident	\$1,000,000
Each employee	\$1,000,000
Policy limit	\$1,000,000
<b>Stop-gap Liability Coverage</b>	
For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	\$1,000,000

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

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- G. *Commercial General Liability—Form and Content:* Contractor’s commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage.
    - a. Such insurance must be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  2. Blanket contractual liability coverage, including but not limited to coverage of Contractor’s contractual indemnity obligations in Paragraph 7.18.
  3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
  4. Underground, explosion, and collapse coverage.
  5. Personal injury coverage.
  6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- H. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of “insured contract” (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
  2. Any exclusion for water intrusion or water damage.
  3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
  4. Any exclusion of coverage relating to earth subsidence or movement.
  5. Any exclusion for the insured’s vicarious liability, strict liability, or statutory liability (other than worker’s compensation).
  6. Any limitation or exclusion based on the nature of Contractor’s work.
  7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

I. *Commercial General Liability—Minimum Policy Limits*

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

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

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

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

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

- L. *Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements*: Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy, as specified herein. If such umbrella or excess liability policy was required under this Contract, at a specified minimum policy limit, such umbrella or excess policy must retain a minimum limit of \$[specify amount] after accounting for partial attribution of its limits to underlying policies, as allowed above.
- M. *Contractor's Pollution Liability Insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage, including cleanup costs, as a result of

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

pollution conditions arising from Contractor's operations and completed operations. This insurance must be maintained for no less than three years after final completion.

<b>Contractor's Pollution Liability</b>	<b>Policy limits of not less than:</b>
Each Occurrence/Claim	\$1,000,000
General Aggregate	\$1,000,000

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

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

#### 6.04 *Builder's Risk and Other Property Insurance*

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

- F. *Builder's Risk Requirements:* The builder's risk insurance must:
1. be written on a builder's risk "all risk" policy form that at a minimum includes insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment stored and in transit, and must not exclude the coverage of the following risks: fire; windstorm; hail; flood; earthquake, volcanic activity, and other earth movement; lightning; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; and water damage (other than that caused by flood).
    - a. Such policy will include an exception that results in coverage for ensuing losses from physical damage or loss with respect to any defective workmanship, methods, design, or materials exclusions.
    - b. 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 will be provided through other insurance policies acceptable to Owner and Contractor.
  2. 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

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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.

3. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of contractors, engineers, and architects).
4. 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). If this coverage is subject to a sublimit, such sublimit will be a minimum of N/A.
5. extend to cover damage or loss to insured property while in transit. If this coverage is subject to a sublimit, such sublimit will be a minimum of N/A.
6. allow for the waiver of the insurer's subrogation rights, as set forth in this Contract.
7. allow for partial occupancy or use by Owner by endorsement, and without cancellation or lapse of coverage.
8. include performance/hot testing and start-up, if applicable.
9. be maintained in effect until the Work is complete, as set forth in Paragraph 15.06.D of the General Conditions, or until written confirmation of Owner's procurement of property insurance following Substantial Completion, whichever occurs first.

## ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

### 7.03 *Labor; Working Hours*

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

1. Regular working hours will be 7:00 A.M. to 7:00 P.M., Monday through Friday.
2. Owner's legal holidays are State mandated holidays.

SC-7.03 Amend the first and second sentences of Paragraph 7.03.C to state "...all Work at the Site must be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday."

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

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

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

1. For purposes of administering the foregoing requirement, additional overtime costs are defined as any hours worked outside of the regular working hours described above.

SC-7.05 *“Or Equals”*

Add a new subparagraph SC-7.05.B.1 immediately after subparagraph 7.05.B:

1. It shall be Contractor’s responsibility to coordinate and eliminate any conflicts which might arise due to the use of “or equal” items. Any additional costs incidental to the use of “or equal” items shall be paid by Contractor.

SC-7.06 *Substitutes*

Add a new subparagraph SC-7.06.E.1 immediately after subparagraph 7.06.E:

1. It shall be Contractor’s responsibility to coordinate and eliminate any conflicts which might arise due to the use of substitutes. Any additional costs incidental to the use of substitutes shall be paid by Contractor.

## SC-7.07 Concerning Subcontractors and Suppliers

SC-7.09 *Permits*

Add the following subparagraph immediately after Paragraph 7.09.A:1. Local permit fees for permits required from the **Owner** will be waived.

7.10 *Taxes*

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

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Maine and of cities and counties thereof on all materials to be incorporated into the Work.
  1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
  2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

**ARTICLE 8—OTHER WORK AT THE SITE – NO SUPPLEMENTAL CONDITIONS**

**ARTICLE 9—OWNER’S RESPONSIBILITIES – NO CHANGES**

**ARTICLE 10—ENGINEER’S STATUS DURING CONSTRUCTION – NO CHANGES**

**ARTICLE 11—CLAIMS – NO CHANGES**

**ARTICLE 12—COST OF WORK; ALLOWANCES, UNIT PRICE WORK**

12.01 *Cost of the Work*

SC-13.01 Supplement Paragraph 13.01.C.2 by adding the following definition of small tools and hand tools:

- a. For purposes of this paragraph, “small tools and hand tools” means any tool or equipment whose current price if it were purchased new at retail would be less than \$500

SC-13.03 UNIT PRICE WORK

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

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the extended price of a particular item of Unit Price Work amounts to 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 20 percent from the estimated quantity of such item indicated in the Agreement.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor’s costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

**ARTICLE 13—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK – NO CHANGES**



**ARTICLE 14—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD**

## SC-15.01 PROGRESS PAYMENTS

SC-15.01 Add the following language at the end of Paragraph 15.01.B.4:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage or invest the retainage for the benefit of the Contractor.

SC-15.01 Add new paragraph immediately after Paragraph 15.01.B.4:

5. The Application for Payment form to be used on this Project is EJCDC C-620.

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

The Application for Payment will be presented to the Owner for consideration. If the Owner finds the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due twenty (20) days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place: 1. **Fifteen** days after presentation of the Application for Payment to Owner, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

## SC-15.03 SUBSTANTIAL COMPLETION

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

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

## SC-15.08 CORRECTION PERIOD

**ARTICLE 15—SUSPENSION OF WORK AND TERMINATION**

No changes in this Article.

**ARTICLE 16—FINAL RESOLUTIONS OF DISPUTES**

No changes in this Article.

**ARTICLE 17—MISCELLANEOUS**

No changes in this Article.

END OF SECTION

SECTION SC 36EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24,1965, so that such provisions

will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

END OF SECTION

SECTION SC-38EXECUTIVE ORDER 11246PART 1 - GENERAL1.1 DESCRIPTION

## A. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this Contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.
  - d. "Minority" includes:
    - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the CONTRACTOR, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
3. If the CONTRACTOR is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and

to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the CONTRACTOR has a collective bargaining agreement, to refer either minorities or women shall excuse the CONTRACTOR's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the CONTRACTOR during the training period, and the CONTRACTOR must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The CONTRACTOR shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the CONTRACTOR's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR's employees are assigned to work. The CONTRACTOR, where possible, will assign two or more women to each construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the CONTRACTOR's obligation to maintain

- such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the CONTRACTOR, this shall be documented in the file with the reason therefore, along with whatever additional actions the CONTRACTOR may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR's employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the CONTRACTOR's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the CONTRACTOR in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year, and, by posting the company's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of

- these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the CONTRACTOR's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media and providing written notification to and discussing the CONTRACTOR's EEO policy with other Contractors and Subcontractors with whom the CONTRACTOR does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a CONTRACTOR's workforce.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the CONTRACTOR's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the CONTRACTOR's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the CONTRACTOR is

a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these Specifications provided that the CONTRACTOR actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the CONTRACTOR's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation to comply, however, is the CONTRACTOR's and failure of such a group to fulfill an obligation shall not be a defense for the CONTRACTOR's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The CONTRACTOR, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the CONTRACTOR may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the CONTRACTOR has achieved its goals for women generally, the CONTRACTOR may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The CONTRACTOR shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing Subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any CONTRACTOR who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The CONTRACTOR, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the CONTRACTOR fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 80-4.8.
14. The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company's EEO policy is being carried out, to submit reports relating to the provision hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction



trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

END OF SECTION

SECTION SC-40

CERTIFICATION OF NONSEGREGATED FACILITIES

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Certification of Nonsegregated Facilities - (Applicable to federally assisted construction Contracts and related Subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity Clause).

The federally assisted construction CONTRACTOR certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction CONTRACTOR certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction CONTRACTOR agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The federally assisted construction CONTRACTOR agrees that (except where he has obtained identical certifications from proposed Subcontractors for specific time periods) he will obtain identical certifications from proposed Subcontractors prior to the award of Subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

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Signature

Date

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Name and Title of Signer (Please Type)

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

END OF SECTION

SECTION SC-41

NOTICE TO LABOR UNIONS OR OTHER ORGANIZATIONS OF WORKERS  
NONDISCRIMINATION IN EMPLOYMENT

To: \_\_\_\_\_  
(Name of union or organization of workers)

The undersigned currently holds Contract(s) with \_\_\_\_\_  
(Name of Applicant)

involving funds or credit of the U. S. Government of (a) subcontract(s) with a prime contractor holding such contract(s).

You are advised that under the provisions of the above contract(s) or subcontract(s) and in accordance with Executive Order 11246, dated September 24, 1965, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

- HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION;
- RECRUITMENT, ADVERTISING, OR SOLICITATION FOR EMPLOYMENT;
- TRAINING DURING EMPLOYMENT; RATES OF PAY OR OTHER FORMS
- OF COMPENSATION; SELECTION FOR TRAINING, INCLUDING
- APPRENTICESHIP; LAYOFF, OR TERMINATION.

This notice is furnished you pursuant to the provisions of the above contract (s) or subcontract(s) and Executive Order 11246.

COPIES OF THIS NOTICE WILL BE POSTED BY THE UNDERSIGNED IN CONSPICUOUS PLACES AVAILABLE TO EMPLOYEES OR APPLICANTS FOR EMPLOYMENT.

\_\_\_\_\_  
/s/ \_\_\_\_\_  
(Contractor or Subcontractor)

\_\_\_\_\_  
(Date)

END OF SECTION

SECTION 00920CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: \_\_\_\_\_ Owner's Project No.: \_\_\_\_\_  
 Engineer: \_\_\_\_\_ Engineer's Project No.: \_\_\_\_\_  
 Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
 Project: \_\_\_\_\_  
 Contract Name: \_\_\_\_\_

This  Preliminary  Final Certificate of Substantial Completion applies to:

All Work  The following specified portions of the Work:

[Describe the portion of the work for which Certificate of Substantial Completion is issued]

Date of Substantial Completion: September 24, 2024

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

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

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

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

Amendments to Owner's Responsibilities:  None  As follows:

[List amendments to Owner's Responsibilities]

Amendments to Contractor's Responsibilities:  None  As follows:

[List amendments to Contractor's Responsibilities]

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

[List attachments such as punch list; other documents]

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

Engineer

By (signature): \_\_\_\_\_  
 Name (printed): \_\_\_\_\_  
 Title: \_\_\_\_\_

END OF SECTION

SECTION 00936

CONSENT OF SURETY TO FINAL PAYMENT

To: \_\_\_\_\_ (Owner)  
\_\_\_\_\_  
\_\_\_\_\_

From: \_\_\_\_\_ (Contractor)  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACT TITLE: \_\_\_\_\_

BOND NUMBER: \_\_\_\_\_

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the \_\_\_\_\_ (Surety Company) on the bond of the Contractor 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 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 Name

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

Attest: (Seal)

\_\_\_\_\_  
Printed Name and Title

Note: Power of Attorney should be attached in instances where same applies.

END OF SECTION

SECTION 00937  
CONTRACTOR'S AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned, a \_\_\_\_\_

(Notary Public, Justice of Peace, Alderman)

in and for said County and State personally appeared, \_\_\_\_\_

(Individual, Partner or duly

\_\_\_\_\_ who being duly sworn according to law

(Authorized Representative of Corporate Contractor)

deposes and says that the cost of all the Work, and outstanding claims and indebtedness of whatever nature arising out of the performance of the contract between

\_\_\_\_\_

(Owner)

and \_\_\_\_\_ of \_\_\_\_\_

(Contractor)

dated \_\_\_\_\_ for the construction of the \_\_\_\_\_

(Agreement Date)

(Project)

\_\_\_\_\_ and necessary appurtenant installations have been paid in full.

\_\_\_\_\_  
(Individual, Partner, or duly authorized representative of corporate contractor)

Sworn to and subscribed before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

END OF SECTION

SECTION 00938CONTRACTOR'S RELEASE

KNOW ALL PERSONS BY THESE PRESENTS that \_\_\_\_\_  
 \_\_\_\_\_ (Contractor)  
 of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_  
 do hereby acknowledge that \_\_\_\_\_ has this day had, and received of  
 \_\_\_\_\_ (Contractor)  
 and from \_\_\_\_\_ the sum of One Dollar and other valuable considerations in  
 \_\_\_\_\_ (Owner)  
 full and complete satisfaction and payment of all sums of money owed, payable and belonging to  
 \_\_\_\_\_ by any means whatsoever, for on account of a Contract  
 \_\_\_\_\_ (Contractor)  
 Agreement between \_\_\_\_\_ and \_\_\_\_\_  
 \_\_\_\_\_ (Owner) \_\_\_\_\_ (Contractor)  
 dated \_\_\_\_\_ for \_\_\_\_\_  
 \_\_\_\_\_ (Agreement Date) \_\_\_\_\_ (Project)

NOW, THEREFORE, the said \_\_\_\_\_  
 \_\_\_\_\_ (Contractor)

(for myself, my heirs, executors and administrators) (for itself, its successors and assigns)  
 do/does, by these presents remise, release, quit-claim and forever discharge \_\_\_\_\_  
 \_\_\_\_\_ (Owner)  
 , of and from all claims and demands, arising from or in connection  
 with the said contract dated \_\_\_\_\_, and of and from all, and all manner of action  
 \_\_\_\_\_ (Agreement Date)  
 and actions, cause and causes of action and actions, suits, debts, dues, duties, sum and sums of  
 money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, agreements, promises,  
 variances, damages, judgments, extents, executions, claims and demand, whatsoever in law or  
 equity, or otherwise, against \_\_\_\_\_ its successors and assigns, which (I,  
 \_\_\_\_\_ (Owner)  
 my heirs, executors, or administrators) (it, its successors and assigns) ever had, now have or which  
 (I, my heirs, executors, or administrators) (it, its successors and assigns) hereafter can, shall or  
 may have, for, upon or by reason of any matter, cause, or thing whatsoever; from the beginning of  
 recorded time to the date of these presents.

IN WITNESS WHEREOF, \_\_\_\_\_  
(Contractor)

has caused these presents to be duly executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Signed, Sealed and Delivered in the presence of:

\_\_\_\_\_  
(Individual -Contractor) (seal)

\_\_\_\_\_

\_\_\_\_\_  
(Partnership - Contractor) (seal)

\_\_\_\_\_ By \_\_\_\_\_ (seal)  
(Partner)

\_\_\_\_\_

Attested:

\_\_\_\_\_  
(Corporation)

\_\_\_\_\_ By \_\_\_\_\_  
(Secretary) (President or Vice President)

(Corp. Seal)

END OF SECTION



SECTION 00939

WAIVER OF LIEN - MATERIALS AND LABOR

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

To: \_\_\_\_\_ (Owner)  
\_\_\_\_\_  
\_\_\_\_\_

WHEREAS, \_\_\_\_\_ (the undersigned)  
have been employed by \_\_\_\_\_ (Contractor)  
on the \_\_\_\_\_ (Project Name) to furnish the following:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (description of material and services).

NOW THEREFORE, the undersigned, for good and valuable considerations do hereby  
waive and release any and all lien, or right of lien, or claim to lien on said above project and  
premises under the Law, in relation to Mechanics' Liens Law, on account of labor and materials,  
or both, furnished by the undersigned to or on account of the said contract for the said project and  
premises only so far as that portion of work which has been included in our requisition dated  
\_\_\_\_\_ and all prior requisitions.

THIS WAIVER AND RELEASE is being made to the undersigned in the amount of  
\$ \_\_\_\_\_ which sum the undersigned certifies to be the balance due the  
undersigned for all labor, materials or both, furnished by the undersigned to or on account of the  
said contract as included on Contractor's requisition dated \_\_\_\_\_.

GIVEN UNDER our hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By: \_\_\_\_\_  
Manufacturer, Supplier or Subcontractor Name  
\_\_\_\_\_  
Signature of Authorized Representative  
\_\_\_\_\_  
Printed Name and Title

END OF SECTION

SECTION 00940

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

Owner:	Owner's Project No.:
Engineer:	Engineer's Project No.:
Contractor:	Contractor's Project No.:
Project:	
Contract Name:	
Date Issued:	Effective Date of Work Change Directive:

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

Description:

[Description of the change to the Work]

Attachments:

[List documents related to the change to the Work]

Purpose for the Work Change Directive:

[Describe the purpose for the change to the Work]

Directive to proceed promptly with the Work described herein, prior to agreeing to change in Contract Price and Contract Time, is issued due to: [Check one or both of the following]

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

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

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

Contract Time: \_\_\_\_\_ days [increase] [decrease] [not yet estimated].

Basis of estimated change in Contract Price:

Lump Sum  Unit Price  Cost of the Work  Other

Recommended by Engineer

Authorized by Owner

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

SECTION 00941

CHANGE ORDER NO.: [Number of Change Order]

Owner: \_\_\_\_\_ Owner's Project No.: \_\_\_\_\_  
 Engineer: \_\_\_\_\_ Engineer's Project No.: \_\_\_\_\_  
 Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
 Project: \_\_\_\_\_  
 Contract Name: \_\_\_\_\_  
 Date Issued: \_\_\_\_\_ Effective Date of Change Order: \_\_\_\_\_

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

Description:

[Description of the change]

Attachments:

[List documents related to the change]

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

<p><b>Recommended by Engineer (if required)</b></p> <p>By: _____                  Title: _____                  Date: _____</p> <p style="text-align: center;"><u>Authorized by Owner</u></p> <p>By: _____                  Title: _____                  Date: _____</p>	<p><b>Accepted by Contractor</b></p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: center;"><u>Approved by Funding Agency (if applicable)</u></p> <p>_____</p> <p>_____</p> <p>_____</p>
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END OF SECTION

SECTION 01010B

SUMMARY OF WORK

PART 1 - GENERAL

1.1 DESCRIPTION:

- A. Location: The Work locations include, but are not limited to, locations within the right-of-ways on the following streets and easements in the Town of Old Orchard Beach.
1. Temple Avenue (Between West Grand Avenue and Seaside Avenue)
    - a. Refer to Road Reconstruction Figure 1 (Appendix A)
  2. Reggio Avenue (Between West Grand Avenue and Seaside Avenue)
    - a. Refer to Road Reconstruction Figure 2 (Appendix A)
  3. Williams Street (Off Temple Avenue)
    - a. Refer to Road Reconstruction Figure 3 (Appendix A)
  4. Wilbur Avenue (Between Melvin Avenue and Old Orchard Beach)
    - a. Refer to Road Reconstruction Figure 4 (Appendix A)
- B. Work Included: The Work includes, but is not limited to, the following:
1. Strip and Repave Temple Avenue:
    - a. Pavement removal
    - b. Installation of new gravel base and associated grading
    - c. Installation of new binder and surface pavement
    - d. Installation of bituminous curbing
    - e. Parking, crosswalk, and stop bar striping
  2. Full Depth Reconstruction of Reggio Avenue, Williams Street, and Wilbur Avenue:
    - a. Pavement removal
    - b. Installation new gravel base and subbase and associated grading
    - c. Installation of new binder, surface, and driveway pavement
    - d. Stop bar striping on Reggio Avenue
  3. All related site work including clearing, groundwater dewatering, disposal of excess excavated materials, backfill, compaction, paving, loam/seed and landscaping.
  4. Restoration of work area and adjacent private property, including:
    - a. Property monumentation disturbed as part of construction
    - b. Driveways in like materials
    - c. Sidewalks
    - d. Lawn space
    - e. Pavement markings
  5. Maintenance of traffic control
- C. Removals, Relocations and Rearrangements
1. Examine the existing site for the work of all trades which will influence the cost of the work under the bid. This work shall include removals, relocations and rearrangements which may interfere with, disturb or complicate the performance of the work under the general bid involving systems, equipment

and related service lines, which shall continue to be utilized as part of the finished project. The Contractor is responsible for all coordination in this regard.

2. Provide in the bid a sufficient amount to include all removals, relocations, rearrangements and reconnections herein specified, necessary or required to provide approved operation and coordination of the combined new and existing systems and equipment.
3. Existing landscaping/fencing or site amenities disturbed during construction shall be replaced and established to preconstruction conditions. Prior coordination with property owners shall be made prior to removal, relocation, and replacement.

#### 1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

### PART 2 - PRODUCTS (NOT APPLICABLE)

### PART 3 - EXECUTION

#### 3.1 CONSTRUCTION SEQUENCE

- A. The Contractor shall submit to the Owner for review and acceptance a complete schedule of the proposed sequence of construction operations prior to commencing any work. This schedule shall include the Contractor's plans for doing the work.

#### 3.2 SCHEDULE LIMITATIONS AND WORK RESTRICTIONS/ REQUIREMENTS

- A. Work Hours:
  1. All work associated with the project shall not begin until after Labor Day.
  2. Work hours are defined in the Section 00700 (General Conditions) and Section 00800 (Supplemental Conditions).
  3. All Work shall be prohibited on Saturdays, Sundays, and legal holidays without written approval by the Town of Old Orchard Beach.
  4. All Work on weekdays shall be performed between the hours of 7:00 AM and after 7:00 PM, except during emergencies.
  5. The Contractor shall request permission to work outside the work hours specified above at least 72-hours in advance of the proposed work. The Contractor shall not commence work outside of the work hours specified above unless or until granted such permission from the Owner.
- B. Traffic Control Plan:
  1. The Contractor shall contact the responsible heads of the Police, Fire, and School Departments to determine the requirements with respect to traffic control, alternate vehicular access routes, etc. Wherever detours are permitted, the size, construction and location of signs shall conform with local and state requirements and/or standards. Detour routes shall be adequately posted to

assist the motorist to return to his route of travel. Where the roadway under construction is the only means of vehicular access to a particular area, the Contractor shall provide continual access to the area for residents and emergency vehicles.

2. The Contractor shall maintain vehicular and pedestrian access, including emergency vehicle access to abutting properties during the course of the work.
3. A project-specific Traffic Control Plan shall be submitted prior to the Pre-Construction Meeting (refer to Section 01570). The Traffic Control Plan shall identify traffic management requirements for each distinct component of the project.
4. Contractor shall provide one lane for the passage of traffic within any work zone unless approved by the Owner.
5. Contractor shall maintain access to all residences and businesses at all times.
6. Contractor shall maintain access for garbage collection and mail services to all residences and businesses at all times. Contractor shall coordinate with these service providers.
7. Contractor shall maintain access for bus routes, schools, day care facilities, etc. at all times. Contractor shall coordinate efforts with local school district to ensure access.

END OF SECTION

SECTION 01050COORDINATIONPART 1 - GENERAL1.1 DESCRIPTION

- A. Contractor is required to work in close proximity to Owner's existing facilities. The Contractor, under this Contract, will be responsible for coordinating construction activities with Owner to ensure that services, facilities, and safe working conditions are maintained.
- B. Other Construction Contractors will be interfacing with this Contract and working within the work area and in the vicinity of this Contract. The Contractor, under this contract, shall act as Construction Coordinator and shall coordinate construction activities with other Contractors working for Owner.
- C. Any damage to existing structures, equipment and property, accepted equipment or structures, and property or work in progress by others; as a result of the Contractor's or their subcontractor's operations shall be made good by the Contractor at no additional cost to the Owner.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 COORDINATION WITH OTHERS

- A. Town of Old Orchard Beach:
  - 1. Contractor shall coordinate access, egress, detours and traffic control, if required, at each site with the Old Orchard Beach Police Department. The Contractor shall notify Old Orchard Beach Police, Fire Department and Rescue Squad at least 24 hours in advance of any street closings or detours.
  - 2. Contractor shall coordinate all work on City property with the Public Works Department.
  - 3. The Contractor shall be responsible for coordinating and maintaining public services to all public and private properties.
- B. Maine Water Company:
  - 1. Contractor shall be responsible for coordinating all work in the vicinity of water lines with Maine Water Company. Contractor shall bear all costs for the Water Company's inspection requirements, temporary facilities, water main adjustments and other requirements.
- C. Central Maine Power Company (CMP):
  - 1. The Contractor shall be responsible for coordinating all work around CMP facilities with CMP and shall bear all costs of inspection requirements, temporary facilities relocation and other requirements.
- D. Consolidated Communications:
  - 1. The Contractor shall be responsible for coordinating all work around Consolidated Communications facilities with Consolidated Communications

and shall bear all costs of inspection requirements, temporary facilities relocation and other requirements.

- E. Charter/Spectrum
  - 1. The Contractor shall be responsible for coordinating all work around Charter Spectrum facilities with Charter Spectrum and shall bear all costs of inspection requirements, temporary facilities relocation and other requirements.
- F. Local Business Owners
  - 1. The Contractor shall be responsible for coordinating all work with local businesses.
- G. The Contractor shall provide the Owner a construction schedule indicating the times to perform the work required. The Contractor shall daily communicate with the Owner concerning updating the schedule, job progress, delay or early starts.
- H. Snow Removal Coordination: The Contractor shall be responsible for all snow removal activities in construction and laydown areas onsite. Owner's operations staff will be responsible for snow removal on the main access road around the facility. Contractor is to coordinate closely with Owner's operations staff to maintain access to all areas of the facility to facilitate normal operations.

1.4 CONTRACTOR'S USE OF PREMISES

- A. Contractor shall coordinate delivery schedules, site access, and other construction-related activities with any other contractors that may be hired by the Owner during the course of construction.
- B. Contractor shall assume full responsibility for security of all of their, and their subcontractors, materials and equipment stored on the site.
- C. If directed by the Owner, Contractor shall move any stored items which interfere with operations of Owner.
- D. Obtain and pay for use of additional storage or work areas if needed to perform the Work.

END OF SECTION



SECTION 01070

ABBREVIATIONS & SYMBOLS

PART 1 - GENERAL

1.1 DESCRIPTION

A. Where any of the following abbreviations are used in these Specifications, they shall have the meaning set forth opposite each.

AASHTO	American Association of State Highway & Transportation Officials
AC	Alternating Current
ACI	American Concrete Institute
ACP	Asbestos Cement Pipe
AGA	American Gas Association
AIC	Ampere Interrupting Capacity
AGMA	American Gear Manufacturers Association
AIEE(IEEE)	American Institute of Electrical Engineers (Institute of Electrical and Electronics Engineers, Inc.)
AISC	American Institute of Steel Construction
AMP	Ampere 125-16
Amer. Std.	American Standard for Cast Iron Pipe Flanges and Flanged Fittings, Class 125 (ASA B16 11960)
ANSI	American National Standards Institute
API	American Petroleum Institute
ASA	American Standards Association
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating and Air Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWG	American or Brown and Sharpe Wire Gage
AWWA	American Water Works Association
CCTV	Closed Circuit Television
CF	Cubic Foot
CFM	Cubic Foot Per Minute
CFS	Cubic Foot Per Second
CI	Cast Iron
CIPP	Cured-in-Place Pipe
CIPRA	Cast Iron Pipe Research Association
CSI	Construction Specifications Institute
CY	Cubic Yard
DC	Direct Current
DEP	Department of Environmental Protection
DI (DIP)	Ductile Iron (Pipe)
DOT	Department of Transportation
EDR	Equivalent Directional Radiation

EPA	U.S. Environmental Protection Agency
FPS	Feet Per Second
FT	Feet
GAL	Gallons
GPD	Gallons Per Day
GPM	Gallons Per Minute
HP	Horsepower
IBR	Institute of Boiler and Radiator Manufacturers
IN	Inches
ISA	Instrument Society of America
KVA	Kilovolt-ampere
KW	Kilowatt
LB	Pound
MACP	Manhole Assessment and Certification Program
MAX	Maximum
MGD	Million Gallons Per Day
MIN	Minimum
NACE	National Association of Corrosion Engineers
NASSCO	National Association of Sewer Service Companies
NBS	National Bureau of Standards
NEC	National Electrical Code, Latest Edition
NEMA	National Electrical Manufacturers Association
NEWWA	New England Water Works Association
NPT	National Pipe Thread
OS&Y	Outside Screw and Yoke
PCA	Portland Cement Association
PPM	Parts Per Million
PSI	Pounds Per Square Inch
PSIG	Pounds Per Square Inch Gage
PVC	Polyvinyl Chloride
RPM	Revolutions Per Minute
RUS	Rural Utility Service
SF	Square Foot
STL. W.G.	U.S. Steel Wire, Washburn and Moen, American Steel and Wire Cos., or Roebling Gage
SY	Square yard
TDH	Total Dynamic Head
USAS	Standards of the United States of America Standards Institute (formerly American Standards Association)
USS GAGE	United States Standard Gage
VC	Vitrified Clay
WSP	Working Steam Pressure
Fed. Spec.	Federal Specifications issued by the Federal Supply Service of the General Service Administration, Washington, D.C.

END OF SECTION

SECTION 01150BMEASUREMENT AND PAYMENTPART 1 - GENERAL1.1 DESCRIPTION

- A. For lump sum items, payment shall be made to the contractor in accordance with an accepted progress schedule and schedule of values on the basis of actual work completed.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 SCOPE OF PAYMENT

- A. Payments to the Contractor will be made for the actual quantities of the Contract items performed and accepted in accordance with the Contract Documents. Upon completion of construction, if these actual quantities show either an increase or decrease from the quantities given in the Proposal Form, the Contract Unit Prices will still prevail.
- B. The Contractor shall accept in compensation, as herein provided, in full payment for furnishing all materials, labor, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced by the Contract; also for all loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the Work and until its final acceptance by the Owner, and for all risks of every description connected with the prosecution of the work, except as provided herein, also for all expenses incurred in consequence of the suspension of the Work as herein authorized.
- C. The payment of any partial estimate or of any retained percentage except by and under the approved final invoice, in no way shall affect the obligation of the Contractor to repair or renew any defective parts of the construction or to be responsible for all damage due to such defects.

1.4 PAYMENT FOR INCREASED OR DECREASED QUANTITIES

- A. When alterations in the quantities of work not requiring supplemental agreements, as hereinbefore provided for, are ordered and performed, the Contractor shall accept payment in full at the Contract price for the actual quantities of work done. No allowance will be made for anticipated profits. Increased or decreased work involving supplemental agreements will be paid for as stipulated in such agreements.

1.5 OMITTED ITEMS

- A. Should any items contained in the bid form be found unnecessary for the proper completion of the work contracted, the Owner may eliminate such items from the Contract, and such action shall in no way invalidate the Contract, and no allowance will be made for items so eliminated in making final payment to the Contractor.

1.6 PARTIAL PAYMENTS

A. Partial payments shall be made monthly as the work progresses. Partial payments shall be made subject to the provisions of the Supplemental and General Conditions.

1.7 PAYMENT FOR MATERIAL DELIVERED

A. When requested by the Contractor and at the discretion of the Owner, payment may be made for all or part of the value of acceptable, non-perishable materials and equipment which are to be incorporated into bid items, have not been used and have been delivered to the construction site, or placed in storage places acceptable to the Owner. Payment shall be subject to the provisions of the General and Supplemental Conditions.

B. No payment shall be made upon fuels, supplies, lumber, false work, or other materials, or on temporary structures of any kind which are not a permanent part of the Contract.

1.8 FINAL PAYMENT

A. After final measurements are made by the Owner, the Contractor will prepare a final quantity invoice of the amount of the Work performed and the value of such Work. Owner shall make final payments of the sum found due less retainages subject to provisions of the General and Supplemental Conditions.

1.9 INCIDENTAL WORK

A. Incidental work items for which separate payment will not be made includes, but is not limited to, the following items:

1. Pre-Construction photographs or videos.
2. Project Record Documents
3. Mobilization/Demobilization
4. Erosion and sedimentation control
5. Traffic control plan, implementation, maintenance, and traffic regulation.
6. Signs
7. Clean-up and restoration of property.
8. Restoration of fences and other structures.
9. Cooperation and coordination with other Contractors and utility companies including related inspection costs and other costs (Refer to Section 01050).
10. Utility crossings and relocations, unless otherwise paid for.
11. Temporary utility services to buildings, as required to maintain service during construction.
12. Minor Items--such as relocation of sign posts, guard rails, rock wall, mail boxes, curbs, traffic loop detectors, pavement markings, etc., damaged as a result of construction activities.
13. Trench boxes, steel and/or wood sheeting as required, including that left in place.
14. Temporary Construction Dewatering as necessary.
15. Dust control.
16. Quality assurance testing.
17. Loam, seeding, grading, liming, fertilization, mulching, and watering.
18. Routine flagger services.

19. Construction schedules, bonds, insurance, shop drawings, warranties, guarantees, and certifications required by the Contract Documents.
20. Temporary construction necessary for construction sequencing and other facilities not permanently incorporated into the work.
21. Weather protection.
22. Permits not otherwise paid for or provided by the Owner.
23. Visits to the project site or elsewhere by personnel or agents of the Contractor, including manufacturer's representatives, as may be required.
24. Contract administration and insurance.
25. Test pits to establish in place field soils density, groundwater conditions, or requirements for dewatering.
26. Pipe markings.
27. Temporary Field Office.
28. Earthwork
29. Test Pits for the Contractor's Benefit
30. Temporary resetting or replacement of existing street and traffic signs and temporary traffic signals where necessary.
31. Raising and lowering of existing frames and covers of buried utilities to grade unless payment is otherwise provided for.
32. Adjustment of existing frames, covers and grates to match final grades and curb faces.
33. Removing and resetting of existing steps, guard rails, fences, walls and non-paved brick or paver walkways disturbed during construction.
34. Installing temporary pavement markings on binder course that will not be surfaced within 14 days of installation.
35. Installing temporary ramps at pavement joints and driveways.
36. Installing raised pavement markers and temporary symbols on the binder course within 48 hours of installing any section of the binder course and maintaining these throughout the project duration.
37. Removal of temporary or permanent pavement markings, prior to paving. This includes removing markings that are applied on the winter binder layer, prior to installation of the wearing course.

1.10 DESCRIPTION OF PAY ITEMS

- A. The following sections describe the measurement of and payment for the work to be done under the respective items listed in the Bid Form.
- B. Each lump-sum price stated in the Bid Form shall constitute full compensation, as herein specified, for each item of the work completed.

(1) – Strip and Repave of Temple Avenue

- A. Method of Measurement: Strip and repave of Temple Avenue shall be paid for at the contract lump sum price stated in the Bid Schedule.
- B. Basis of Payment: Payment for strip and repave of Temple Avenue shall be full compensation for all labor, tools, and equipment necessary to complete this work including saw cutting, removal and disposal of existing pavement, supply and installation of aggregate base gravel, grading of base material, supply and installation

of binder and surface bituminous pavement, ship lapping of joints grinding of existing pavement at all joints between new and existing pavement, removal and disposal of existing curb, supply and installation of new bituminous curb, repair of loam and seed behind curb, placing and rolling the mix, application of tack coat, stop bar striping, crosswalk striping, and parking striping, and all else incidental thereto for which payment is not provided under other items. Refer to Road Reconstruction Figure 1 (Appendix A) for location of strip and repave on Temple Avenue.

(2) – Full Depth Reconstruction of Reggio Avenue

- A. Method of Measurement: Full depth reconstruction of Reggio Avenue shall be paid for at the contract lump sum price stated in the Bid Schedule.
- B. Basis of Payment: Payment for full depth reconstruction of Reggio Avenue shall be full compensation for all labor, tools, and equipment necessary to complete this work including saw cutting, removal and disposal of existing pavement, excavation, clearing and grubbing, supply and installation of aggregate base and subbase gravel, grading of base material, supply and installation of binder and surface bituminous pavement, ship lapping of joints, grinding of existing pavement at all joints between new and existing pavement and at driveway intersections, supply and installation of driveway pavement, placing and rolling the mix, application of tack coat, stop bar striping, and all else incidental thereto for which payment is not provided under other items. Refer to Road Reconstruction Figure 2 (Appendix A) for location of full depth reconstruction on Reggio Avenue.

(3) – Full Depth Reconstruction of Williams Street

- A. Method of Measurement: Full depth reconstruction of Williams Avenue shall be paid for at the contract lump sum price stated in the Bid Schedule.
- B. Basis of Payment: Payment for full depth reconstruction of Williams Street shall be full compensation for all labor, tools, and equipment necessary to complete this work including saw cutting, removal and disposal of existing pavement, excavation, clearing and grubbing, supply and installation of aggregate base and subbase gravel, grading of base material, supply and installation of binder and surface bituminous pavement, ship lapping of joints, grinding of existing pavement at all joints between new and existing pavement and at driveway intersections, supply and installation of driveway pavement, placing and rolling the mix, application of tack coat, and all else incidental thereto for which payment is not provided under other items. Refer to Road Reconstruction Figure 3 (Appendix A) for location of full depth reconstruction on Williams Street.

(4) – Full Depth Reconstruction of Wilbur Avenue

- A. Method of Measurement: Full depth reconstruction of Wilbur Avenue shall be paid for at the contract lump sum price stated in the Bid Schedule.
- B. Basis of Payment: Payment for full depth reconstruction of Wilbur Avenue shall be full compensation for all labor, tools, and equipment necessary to complete this work

including saw cutting, excavation, removal and disposal of existing pavement, clearing and grubbing, supply and installation of aggregate base and subbase gravel, grading of base material, supply and installation of binder and surface bituminous pavement, slip lapping of joints, grinding of existing pavement at all joints between new and existing pavement and at driveway intersections, supply and installation of driveway pavement, placing and rolling the mix, application of tack coat, and all else incidental thereto for which payment is not provided under other items. Refer to Road Reconstruction Figure 4 (Appendix A) for location of full depth reconstruction on Wilbur Avenue.

END OF SECTION

SECTION 01310CONSTRUCTION SCHEDULES – SHORT FORMPART 1 - GENERAL1.1 DESCRIPTION

- A. Work Included: Within ten (10) days after the effective date of the Agreement between Owner and Contractor submit to the Owner an estimated progress schedule as specified herein.
- B. Form of Schedules:
  - 1. Narrative: Completely describe the construction methods to be employed.
  - 2. Network Analysis System:
    - a. Provide a separate horizontal schedule line for each trade or operation and show concurrent and preceding activities.
    - b. Present in chronological order the beginning of each trade or operation showing duration and float time.
    - c. Scale: Identify key dates and allow space for updating and revision.
  - 3. Mathematical Analysis:
    - a. A mathematical analysis shall accompany the network diagram. A computer printout will be acceptable.
    - b. Information shall be included on activity numbers, duration, early start, late start, etc. and float times.
- C. Content of Schedules:
  - 1. Provide complete sequence of construction by activity:
    - a. Decision dates for:
      - i. Products specified by allowances.
      - ii. Selection of finishes.
    - b. Estimated product procurement and delivery dates.
    - c. Dates for beginning and completion of each element of construction.
  - 2. Identify work of separate phases and logically grouped activities.
  - 3. Show the projected percentage of completion for each item of work as of the first day of each month.
  - 4. Provide separate sub-schedules, if requested by the Owner, showing review times, procurement schedules, and delivery dates.
  - 5. Schedule sheets shall be printed in color on 11"x17" paper, unless a smaller size paper is allowed by the Owner.
- D. Updating:
  - 1. Show all work activities including those already complete.
  - 2. Show all changes occurring since previous submission.
  - 3. Indicate progress of each activity, show completion dates.
  - 4. Include:
    - a. Major changes in scope.
    - b. Activities modified since previous updating.
    - c. Revised projections due to changes.
    - d. Other identifiable changes.



5. Provide narrative report, including:
  - a. Discussion of problem areas, including current and anticipated delay factors.
  - b. Corrective action taken or proposed.
  - c. Description of revisions that may affect schedules.
  - d. Description of activities to be performed in the next 6-week period.
  - e. Updated list of key shop drawings, project data and samples to be submitted in the next 6-week period.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

END OF SECTION

SECTION 01400  
QUALITY CONTROL

PART 1 - GENERAL

1.1 REQUIREMENTS INCLUDED

- A. General Quality Control.
- B. Workmanship.
- C. Manufacturer's Instructions.
- D. Manufacturer's Certificates.
- E. Manufacturer's Field Services.
- F. Testing Laboratory Services.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 QUALITY CONTROL

- A. Maintain quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.

1.4 WORKMANSHIP

- A. Comply with industry standards except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
- B. Perform work by persons qualified to produce workmanship of specified quality.
- C. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, and racking.

1.5 MANUFACTURERS' INSTRUCTIONS

- A. Comply with instructions in full detail, including each step in sequence. Should instructions conflict with Contract Documents, request clarification from Owner before proceeding.

1.6 MANUFACTURERS' CERTIFICATES

- A. When required by individual Specifications Section, submit manufacturer's certificate that products meet or exceed specified requirements.

1.7 MANUFACTURERS' FIELD SERVICES

- A. When specified in respective Specification Sections, require supplier and/or manufacturer to provide qualified personnel to observe field conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust and balance of equipment as applicable, and to make appropriate recommendations.
- B. Representative shall submit written report to Owner listing observations and recommendations.

1.8 TESTING LABORATORY SERVICES

- A. Owner will employ and pay for services of an Independent Testing Laboratory to perform inspections, tests, and other services wherever an Independent Testing Laboratory is required by individual specification sections.
- B. Services will be performed in accordance with requirements of governing authorities and with specified standards.
- C. Reports will present observations and test results and indicate compliance or non-compliance with specified standards and with Contract Documents. Independent Testing Laboratory will submit one copy of each report directly to each of the following: Owner, Contractor. Reports will be submitted within 5 days of obtaining test results. If test results indicate deficiencies, Independent Testing Laboratory shall telephone or email results to Owner, Resident Project Representative and Contractor within 24 hours.
- D. Contractor shall cooperate with Independent Testing Laboratory personnel; furnish tools, samples of materials, design mix, equipment, storage and assistance as requested.
- E. Contractor shall coordinate all testing work and shall notify Owner and Independent Testing Laboratory at least 24 hours prior to performing work requiring testing services. If scheduled tests or sampling cannot be performed because the work is not ready as scheduled, testing costs associated with the delay will be determined and invoiced by Owner to Contractor. If unpaid after 60 days, the invoice amount will be deducted from the Contract Price. If adequate notice is not provided, Contractor shall suspend work on that portion of the Project until testing can be performed. Such suspension will not be grounds for a claim against the Owner for delay, nor will it be an acceptable basis for an extension of time.
- F. Payment for Independent Testing Laboratory services shall be as follows:
  - 1. General: Where testing is the Owner's responsibility, payment will be made as stated below unless other requirements are given in Specification Sections. Testing which is the responsibility of the Contractor will be considered an incidental item unless otherwise indicated in Section 01150, Measurement and Payment.
  - 2. Initial Testing: Owner will pay for initial tests.
  - 3. Retesting: Costs of retesting due to non-compliance will be initially paid by Owner. The owner will determine the cost of retesting and will invoice Contractor for this cost. If unpaid after 60 days, the invoice amount will be deducted from the Contract Price via Change Order.
  - 4. Contractor's Convenience Testing: Inspections and tests performed for Contractor's convenience will be paid for by Contractor.

PART 2 - PRODUCTS  
Not Used

PART 3 - EXECUTION  
Not Used

END OF SECTION

SECTION 01562DUST CONTROLPART 1 - GENERAL1.1 DESCRIPTIONS

## A. Work Included:

1. Furnish and apply water or calcium chloride on the road surfaces within the construction site, when required to control dust and when directed by the Owner.
2. When dust control is not included as a separate item in the Contract, the work shall be considered incidental to the appropriate items of the Contract.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

PART 2 - PRODUCTS2.1 MATERIALS

## A. Water for Sprinkling:

## B. Clean, free of salt, oil, and other injurious matter.

## C. Calcium Chloride:

1. Meet the requirements of AASHTO M144.

PART 3 - EXECUTION3.1 APPLICATION

## A. Water:

1. Apply water by methods approved by the Owner.
2. Use approved equipment including a tank with gauge equipped pump and spray bar.

## B. Calcium Chloride:

1. Apply at a rate sufficient to maintain a damp surface but low enough to assure non-contamination of water courses.
2. Apply water prior to calcium chloride addition.

END OF SECTION

SECTION 01570TRAFFIC REGULATIONPART 1 - GENERAL1.1 DESCRIPTION

- A. Work Included:
1. Provide all materials and perform all work necessary to completely regulate traffic in the area of Work.
  2. Perform all work in such a manner as to provide safe passage at all times for the public and with a minimum of obstruction to traffic.
  3. Do not close roads or streets to passage of the public without the permission of the proper authorities.
  4. Uniformed officers with vehicles and flaggers (including police officers when required by law, regulations, ordinances, or as a result of poor traffic control) shall be obtained and paid for by the Contractor.
- B. The local police department and/or the Town of Old Orchard Beach Public Works Department will decide if safe passage is being maintained and shall have the authority to require the Contractor to take any additional steps necessary to maintain safe passage. If the Authority furnishes an inspector on the job or requires additional traffic control as a result of poor traffic control by the Contractor, the Contractor shall be responsible for all costs assessed by the Authority and for additional traffic control at their own expense. Minimize the length of delays or traffic stoppage to the extent practicable. Maximum traffic stoppage time shall be 10 minutes.
- C. Develop a project specific traffic control plan that meets the requirements of Manual of Uniform Traffic Control Devices (MUTCD) and any local and state requirements. Proposed Traffic Control Plan shall indicate signs/locations to be used.
- D. The Contractor's designated traffic control representative shall respond to all traffic safety complaints and be available to direct traffic control subcontractors the entire time work is occurring on site. If the designated representative is not on site for a period of time, another on site representative shall be designated by the Contractor for that period.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 SCHEDULING WORK

- A. During the Project Pre-Construction Meeting one Contractor representative will be designated as the coordinator between the Police Department and subcontracted traffic control.
- B. Schedule all work so that two adjacent parallel streets are not closed to passage by the public at any one time, if at all possible.
- C. Revise the plan of work if it will create a traffic hazard or an unreasonably long detour.

- D. Do not start work in any new location without the permission of the Owner.
- E. Notify all police and fire departments of all scheduled detours and when streets are reopened.

## PART 2 - PRODUCTS

### 2.1 WARNING SIGNS AND BARRICADES

- A. Traffic control (plans, methods and devices) shall be as outlined in the MUTCD as published by U. S. Department of Transportation, and any local and state requirements.
- B. Provide adequate warning signs, barricades, signal lights, flaggers/uniformed police officers, and take other necessary precautions for the safety of the public.
- C. Provide and illuminate suitable warning signs to show where construction, barricades or detours exist.
- D. Provide barricades of substantial construction and painted with a finish that increases visibility at night, as outlined in the MUTCD.
- E. Keep signal lights illuminated at all barricades and obstructions from sunset to sunrise.
- F. Maintain all necessary signs, barricades, lights, flaggers, crew and other safety precautions during authorized suspension of the Work, weekends, holidays or other times when the Work is not in progress.
- G. Contractor shall make periodic inspection throughout the day of the traffic control patterns, methods, signs and other devices to ensure that they are properly placed.

### 2.2 UNIFORMED POLICE OFFICER

- A. A uniformed police officer is a police officer (local, county or state) on regular or special duty dressed in uniform with the necessary high visibility vest and apparel needed for traffic control.
- B. Arrange the police detail with the local Chief of Police, County Sheriff, or State Police Captain depending on jurisdiction.

### 2.3 FLAG PERSON

- A. A flag person is a trained and certified individual assigned specifically to the task of directing traffic and is outfitted in the necessary high visibility vest and apparel needed for traffic control.
- B. Flag persons shall be provided by the Contractor.

## PART 3 - EXECUTION

### 3.1 DETOURS

- A. Provide, identify and maintain suitable detours when the project, or any part thereof, is closed to public travel.
- B. When the closed part of the project is reopened, restore the detour area and any other disturbed areas to the original condition.

### 3.2 INCONVENIENCE TO RESIDENTS OF VICINITY

- A. Whenever a traveled way is closed, perform the Work in such a manner that local

travel, residents and businesses in the vicinity of the Work will be inconvenienced as little as possible.

- B. Allow access to residents and abutting land owners along the project to driveways and other normal outlets from their property.

3.3 TRAFFIC CONTROL OFFICERS

- A. Where required by the local, county or state police departments and/or when specified, traffic control officer shall be Uniformed Police Officers.
- B. Where the local, county or state police departments do not wish to or are unable to furnish traffic control officers and/or when specified, the traffic control officers shall be flag person.

END OF SECTION



SECTION 02200EARTHWORKPART 1 - GENERAL1.1 DESCRIPTION

A. The Work described by this Section consists of all earthwork encountered and necessary for construction of the project as indicated in the Contract Documents, and includes but is not limited to the following:

1. Excavation
2. Backfilling and Filling
3. Compaction
4. Grading
5. Providing soil material as necessary
6. Disposal of unsuitable materials
7. Disposal of excess suitable material

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 QUALITY ASSURANCE

A. Requirements of Regulatory Agencies:

1. All work shall be performed and completed in accordance with all local, state and federal regulations.
2. The General Contractor shall secure all other necessary permits unless otherwise indicated from, and furnish proof of acceptance by, the municipal and state departments having jurisdiction and shall pay for all such permits, except as specifically stated elsewhere in the Contract Documents.

B. Line and Grade:

1. The Contractor shall establish the lines and grades in conformity with the Drawings and maintain same to properly perform the work.

C. Testing Methods:

1. Gradation Analysis: Where a gradation is specified the testing shall be in accordance with ASTM C117 and ASTM C136 (or latest revision).
2. Compaction Control:
  - a. Unless otherwise indicated, wherever a percentage of compaction for backfill is indicated or specified, it shall be the in-place density divided by the maximum density and multiplied by 100. The maximum density shall be the density at optimum moisture as determined by ASTM Standard Methods of Test for Moisture-Density Relations of Soil Using 10-lb. Hammer and 18-in. Drop, Designation D1557 (Modified Proctor), or latest revision, unless otherwise indicated.
  - b. The in-place density shall be determined in accordance with ASTM Standard Method of Test for Density of Soil in Place by the Sand Cone

method, Designation D1556, (or latest revision) or Nuclear method Designation D6938.

- c. Wherever specifically indicated, maximum density at optimum moisture may be determined by ASTM Standard Methods of Test for Moisture Density Relations of Soils, ASTM D6938 (Standard Proctor).
- d. An Independent Testing Laboratory will be retained by the Owner to conduct all laboratory and field soil sampling and testing, and to observe earth work and foundation construction activities. Laboratory testing will consist of sieve analyses, natural water content determinations, and compaction tests. Field testing will consist of in-place field density tests and determination of water contents.

#### 1.4 TESTS

- A. The Independent Testing Laboratory shall conform to the procedures and standards listed below. Submit test results in accordance with the procedure specified in the General and Supplementary Conditions.
- B. All testing shall be performed by a qualified Independent Testing Laboratory at the Owner's expense unless otherwise indicated (see Section 01400 - Quality Control).
- C. Paved Areas: Make at least one field density test of subgrade for every 2,000 sq. ft. of paved area or building slab, but in no case less than 3 tests. In each compacted fill layer, make one field density test for every 2,000 sq. ft. of overlaying building slab or paved area, but in no case less than 3 tests.
- D. In addition to the above tests the Independent Testing Laboratory will perform additional density tests at locations and times requested by the Owner.
- E. Additional density testing will be required by the Owner if the Owner is not satisfied with the apparent results of the Contractor's compaction operation.
  - 1. If the test results fail to meet the requirements of these specifications, the Contractor shall undertake whatever action is necessary, at no additional cost to the Owner, to obtain the required compaction. No allowance will be considered for delays in the performance of the work.
  - 2. Reconciliation of re-testing costs are specified in Section 01400.

#### 1.5 JOB CONDITIONS

- A. Site Information:
  - 1. Data on indicated subsurface conditions are not intended as representations or warranties of accuracy or continuity between soil borings. It is expressly understood that Owner will not be responsible for interpretations or conclusions drawn there from by the Contractor. Data are made available for the convenience of Contractor.
  - 2. Additional test borings and other exploratory operations may be made by Contractor at no additional cost to Owner.

### PART 2 - PRODUCTS

#### 2.1 SOIL MATERIAL

- A. Aggregate Base: Shall be screened or crushed gravel of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances.

Material shall be in conformance to MEDOT Standard Specification Section 703.06. Type A Aggregate for base shall not contain particles of rock that will not pass the 4 inch square mesh sieve. The gradation of the part that passes a 3-inch sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percent by Weight Passing Square Mesh Sieves</u> MEDOT Type A <u>Aggregate</u>
1/2 inch	45-70
1/4 inch	30-55
No. 40	0-20
No. 200	0-6.0

- B. Aggregate Subbase: Shall be screened or crushed gravel consisting of hard durable particles which are free from vegetable matter, lumps or balls of clay and other deleterious substances. Material shall be in conformance to MEDOT Standard Specification Section 703.06. The gradation of the part that passes a 3-inch seive shall meet the grading requirements of the following table:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u> Maine DOT Type D
1/2 inch	35-80
1/4 inch	25-65
No. 40	0-30
No. 200	0-7.0

### PART 3 - EXECUTION

#### 3.1 INSPECTION

- A. Examine the areas and conditions under which excavating, backfilling, filling, compaction and grading are to be performed and notify the Owner in writing of conditions detrimental to the proper and timely completion of the work. Do not proceed with the work until unsatisfactory conditions have been corrected.

#### 3.2 EXCAVATION

##### A. General:

1. Excavation consists of removal and disposal of all material encountered when establishing line and grade elevations required for execution of the work.
2. The Contractor shall make excavations in such manner and to such widths as will give suitable room for building the structures or laying and jointing the piping; shall furnish and place all sheeting, bracing, and supports; shall do all cofferdamming, pumping, and draining; and shall render the bottom of the excavations firm, dry and acceptable in all respects.

3. All excavation shall be classified as either earth or ledge.
    - a. Earth Excavation shall consist of the removal, hauling and disposal of all earth materials encountered during excavation including but not limited to native soil or fill, pavement (bituminous or concrete), existing sewers and manholes, ashes, loam, clay, swamp muck, debris, soft or disintegrated rock or hard pan which can be removed with a backhoe, or a combination of such materials, and boulders that do not meet the definition of "Ledge" below.
    - b. Ledge Excavation: Shall consist of the removal, hauling, and disposal of all ledge or rock encountered during excavation. "Ledge" and "rock" shall be defined as any natural compound, natural mixture that in the opinion of the Owner can be removed from its existing position and state only by drilling and blasting, wedging, sledging, boring or breaking up with power operated tools. No boulder, ledge, slab, or other single piece of excavated material less than two cubic yards in total volume shall be considered to be rock unless, in the opinion of the Owner it must be removed from its existing position by one of the methods mentioned above.
  4. The Contractor shall not have any right of property in any materials taken from any excavation. Do not remove any such materials from the construction site without the approval of the Owner. This provision shall in no way relieve the Contractor of his obligations to remove and dispose of any material determined by the Owner to be unsuitable for backfilling. The Contractor shall dispose of unsuitable and excess material in accordance with the applicable sections of the Contract Documents.
- B. Additional Excavation: When excavation has reached required subgrade elevations, notify the Owner who will observe the conditions.
1. If material unsuitable for the structure or paved area or pipeline (in the opinion of the Owner) is found at or below the grade to which excavation would normally be carried in accordance with the Specifications, the Contractor shall remove such material to the required width and depth and replace it with thoroughly compacted select fill, screened stone, crushed stone, or concrete as directed by the Owner.
  2. All excavated materials designated by the Owner as unsuitable shall become the property of the Contractor and disposed of at locations in accordance with all State and local laws and the provisions of the Contract Documents.
- C. Unauthorized Excavation: Shall consist of removal of materials beyond indicated subgrade elevations or dimensions without specific authorization of Owner. Unauthorized excavation, as well as remedial work required by the Owner shall be at the Contractor's expense. Remedial work required is as follows:
1. Under footings, foundation bases, or retaining walls, fill unauthorized excavation with select fill or screened stone compacted to 95%. Provide 12" minimum select fill or screened stone directly under footings. Concrete fill may be used to bring elevations to proper position, when acceptable to Owner.
  2. If the bottom of a trench is excavated beyond the limits indicated, backfill the resulting void with thoroughly compacted screened stone, unless otherwise indicated.

3. Elsewhere, backfill and compact unauthorized excavations as specified for authorized excavations of same classification, unless otherwise directed by Owner.
- D. Protection of Persons, Property and Utilities:
1. Barricade open excavations occurring as part of this work and post with warning lights in compliance with local and State regulations.
  2. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout and other hazards created by earthwork operations. Exercise extreme caution and utilize sheeting, bracing, and whatever other precautionary measures that may be required.
  3. Rules and regulations governing the respective utilities shall be observed in execution of all work. Active utilities and structures shall be adequately protected from damage, and removed or relocated only as indicated or specified. Inactive and abandoned utilities encountered in excavation and grading operations shall be removed, plugged or capped only with written authorization of the utility owner. Report in writing to the Owner, the locations of such abandoned utilities. Extreme care shall be taken when performing work in the vicinity of existing utility lines, utilizing hand excavation in such areas, as far as practicable.
  4. Repair, or have repaired, all damage to existing utilities, structures, lawns, other public and private property which results from construction operations, at no additional expense to the Owner, to the complete satisfaction of the Owner the utility, the property owner, and the Owner.
- E. Stability of Excavations:
1. Slope sides of excavations to comply with all codes and ordinances having jurisdiction. Shore and brace where sloping is not possible because of space restrictions or stability of material excavated.
  2. Maintain sides and slopes of excavations in a safe condition until completion of backfilling.
- F. Material Storage:
1. Stockpile excavated materials which are satisfactory for use on the work until required for backfill or fill. Place, grade and shape stockpiles for proper drainage and protect with temporary seeding or other acceptable methods to control erosion.
  2. Locate and retain soil materials away from edge of excavations.
  3. Dispose of excess soil material and waste materials as herein specified.
- G. Dewatering:
1. To ensure proper conditions at all times during construction, the Contractor shall provide and maintain ample means and devices (including spare units kept ready for immediate use in case of breakdowns) with which to intercept and/or remove promptly and dispose properly of all water entering trenches and other excavations (including surface and subsurface waters).
  2. Excavations shall be kept dry until the structures, pipes, and appurtenances to be built therein have been completed to such extent that they will not be floated or otherwise damaged.

- H. Cold Weather Protection:
  - 1. Protect excavation bottoms against freezing when atmospheric temperature is less than 35°F.
  - 2. No frozen material shall be used as backfill or fill and no backfill shall be placed on frozen material.
- I. Separation of Surface Material:
  - 1. The Contractor shall remove only as much of any existing pavement as is necessary for the prosecution of the work.
  - 2. Prior to excavation, existing pavement shall be cut where in the opinion of the Owner it is necessary to prevent damage to the remaining road surface.
  - 3. Where pavement is removed in large pieces, it shall be disposed of before proceeding with the excavation.
  - 4. From areas within which excavations are to be made, loam and topsoil shall be carefully removed and separately stored to be used again as directed; or, if the Contractor prefers not to separate surface materials, he shall furnish, as directed, loam and topsoil at least equal in quantity and quality to that excavated.
- J. Dust Control:
  - 1. During the progress of the work, the Contractor shall conduct his operations and maintain the area of his activities, including sweeping and sprinkling of streets as necessary, so as to minimize the creation and dispersion of dust. Refer to Specification Section 01562.
  - 2. If the Owner decides that it is necessary to use calcium chloride for more effective dust control, the contractor shall furnish and spread the material, as directed.

### 3.3 COMPACTION

- A. General:
  - 1. Control soil compaction during construction to provide not less than the minimum percentage of density specified for each area classification.
- B. Percentage of Maximum Density Requirements:
  - 1. Compact soil to not less than the following percentages of maximum dry density determined in accordance with ASTM D1557 as indicated.
    - a. Structures: Compact each layer of backfill or fill material below or adjacent to structures to at least 95% of maximum dry density (ASTM D1557).
    - b. Off Traveled Way Areas: Compact each layer of backfill or fill material to at least 90% of maximum dry density (ASTM D1557).
    - c. Walkways: Compact each layer of backfill or fill material to at least 93% of maximum dry density (ASTM D1557).
    - d. Roadways, Drives and Paved Areas: Compact each layer of fill, subbase material, and base material to at least 95% of maximum dry density (ASTM D1557).
    - e. Pipes: Compact bedding material and each layer of backfill to at least 90% maximum dry density (ASTM D1557). Where backfilling with excavated material, compact to native field density.
    - f. Embankments: Compact each layer of embankment material to at least 95% of maximum dry density (ASTM D1557).

- C. Moisture Control:
  - 1. Where subgrade or a layer of soil material must be moisture conditioned before compaction, uniformly apply water to surface of subgrade, or layer of soil material, in quantities controlled to prevent free water appearing on surface during or subsequent to compaction operations.
  - 2. Remove and replace, or scarify and air dry, soil material that is too wet to permit compaction to specified density.
  - 3. Soil material that has been removed because it is too wet to permit compaction may be stockpiled or spread and allowed to dry. Assist drying by discing, harrowing or pulverizing until moisture content is reduced to a satisfactory level.
- D. Compaction Methods: The Contractor may select any method of compaction that is suitable to compact the material to the required density.
  - 1. General: Whatever method of compacting backfill is used, care shall be taken that stones and lumps shall not become nested and that all voids between stones shall be completely filled with fine material. All voids left by the removal of sheeting shall be completely backfilled with suitable materials and thoroughly compacted.
  - 2. Tamping or Rolling: If the material is to be compacted by tamping or rolling, the material shall be deposited and spread in uniform, parallel layers not exceeding the uncompacted thicknesses specified. Before the next layer is placed, each layer shall be tamped as required so as to obtain a thoroughly compacted mass. Care shall be taken that the material close to the excavation side slopes, as well as in all other portions of the fill area, is thoroughly compacted. When the excavation width and the depth to which backfill has been placed are sufficient to make it feasible, and it can be done effectively and without damage to the pipe or structure, backfill may, on approval, be compacted by the use of suitable rollers, tractors, or similar powered equipment instead of by tamping. For compaction by tamping or rolling, the rate at which backfilling material is deposited shall not exceed that permitted by the facilities for its spreading, leveling, and compacting as furnished by the Contractor.
- E. Reconditioning Compacted Areas: Where completed compacted areas are disturbed by subsequent construction operations or adverse weather, scarify surface, re-shape, and compact to required density prior to further construction.

### 3.4 GRADING:

- A. General:
  - 1. Grading shall consist of that work necessary to bring all areas to the final grades.
  - 2. Uniformly grade areas within limits of work requiring grading, including adjacent transition areas.
  - 3. Smooth finished surface within specified tolerances, compact with uniform levels or slopes between points where elevations are shown, or between such points and existing grades.
- B. Grading Outside Building Lines:
  - 1. Grade areas adjacent to building to drain away from structures and to prevent ponding.
  - 2. Grade surfaces to be free from irregular surface changes, and as follows:

- a. Lawn or Unpaved Areas: Finish grade areas to receive topsoil to within not more than 1" above or below the required subgrade elevations.
  - b. Walks: Shape surface of areas under walks to line, grade and cross-section, with finish surface not more than 1/2" above or below the required subgrade elevation.
  - c. Pavements: Shape surface of areas under pavement to line, grade and cross-section, with finish surface not more than 3/8" above or below the required subgrade elevation.
- C. Compaction:
- 1. After grading, compact subgrade surfaces to the depth and percentage of maximum density for each area classification.
- D. Protection of Graded Areas:
- 1. Protect newly graded areas from traffic and erosion. Keep free of trash and debris.
  - 2. Repair and re-establish grades in settled, eroded, and rutted areas to specified tolerances.

### 3.5 BASE COURSE AND LEVELING COURSE

- A. General:
- 1. Base course consists of placing the specified materials in layers to support a leveling course or paved surface, as indicated in the Drawings.
- B. Grade Control:
- 1. During construction, maintain lines and grades including crown and cross-slope of base course and leveling course.
- C. Placing:
- 1. Place base course on prepared subbase conforming to indicated cross-section and thickness. Maintain optimum moisture content for compacting base materials.
  - 2. Place leveling course on prepared base course, conforming to indicated cross-section and thickness. Maintain optimum moisture content for compaction.
- D. Shaping and Compacting:
- 1. All layers of aggregate base course and leveling course shall be compacted to the required density immediately after placing. As soon as the compaction of any layer has been completed, the next layer shall be placed.
  - 2. The Contractor shall bear full responsibility for and make all necessary repairs to the base leveling courses and the subgrade until the full depth of the base leveling courses is placed and compacted. Repairs shall be made at no additional cost to the Owner.
  - 3. If the top of any layer of the aggregate base or leveling course becomes contaminated by degradation of the aggregate or addition of foreign materials, the contaminated material shall be removed and replaced with the specified material at the Contractor's expense.

END OF SECTION



SECTION 02270TEMPORARY EROSION CONTROLPART 1 - GENERAL1.1 DESCRIPTION

## A. Work Included:

1. The work under this section shall include provision of all labor, equipment, materials and maintenance of temporary erosion control devices, as specified herein, as shown on the Drawings and as directed by the Owner.
2. Erosion control measures shall be provided as necessary to correct conditions that develop prior to the completion of permanent erosion control devices, or as required to control erosion that occurs during normal construction operations.
3. Construction operations shall comply with all federal, state and local regulations pertaining to erosion control.
4. After awarding of or after being awarded the Contract, prior to commencement of construction activities, the Contractor will meet with the Owner to discuss erosion control requirements and develop a mutual understanding relative to details of erosion control.

## B. Design Criteria:

1. Conduct all construction in a manner and sequence that causes the least practical disturbance of the physical environment.
2. Stabilize disturbed earth surfaces in the shortest time and employ such temporary erosion control devices, as may be necessary, until such time as adequate soil stabilization has been achieved.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

PART 2 - PRODUCTS2.1 MATERIALS

## A. Baled Hay:

1. At least 14" by 18" by 30" securely tied to form a firm bale, with at least two stakes to hold the bale in place.

## B. Sand Bags:

1. Heavy cloth bags of approximately one cubic foot capacity filled with sand or gravel.

## C. Mulches:

1. Loose hay, straw, peat moss, wood chips, bark mulch, crushed stone, wood excelsior, or wood fiber cellulose.
2. Type and use shall be as specified by the "Maine Erosion and Sedimentation Control Best Management Practices" prepared by the Maine DEP, herein after referred to as the BMP.

- D. Mats and Nettings:
  - 1. Twisted Craft paper, yarn, jute, excelsior wood fiber mats, glass fiber and plastic film.
  - 2. Type and use shall be as specified in the BMP.
- E. Permanent Seed:
  - 1. Conservation mix appropriate to the predominant soil conditions as specified in the BMP and subject to approval by the Owner.
- F. Temporary Seeding:
  - 1. Use species appropriate for soil conditions and season as specified in the BMP and subject to approval by the Owner.
- G. Water:
  - 1. The Contractor shall provide water and equipment to control dust, as directed by the Owner.
- H. Silt Fence:
  - 1. Silt Fence shall be one of the commercially available brands, meeting the following requirements:

<u>Geotextile Mechanical Property</u>	<u>Test Method</u>	<u>Minimum Permissible Value</u>
Grab Tensile Strength (both directions)	ASTM D-4632	124 pounds
Puncture Strength	ASTM D-4833	60 pounds
Apparent Opening Size	ASTM D-4751	#30
Flow Rate	ASTM D-4491	8 gal/min/ft <sup>2</sup>

- I. Erosion Control Mix Berm:
  - 1. Minimum 12" high and 24" wide berm, meeting the following requirements and as specified by the "Maine Erosion and Sedimentation Control Best Management Practices" prepared by the Maine DEP:
    - a. Organic matter content between 80-100%, dry weight
    - b. Particle size by weight shall be 100% passing a 6" screen and 70-85% passing a 3/4" screen
    - c. Organic portion must be fibrous and elongated.
    - d. Soluble salts content shall be less than 4.0 mmhos/cm.
    - e. pH should be between 5.0-8.0.
    - f. Free from refuse, physical contaminants, and material toxic to plant growth such as fly ash or yard scraping.
    - g. No large portions of silts, clays, or fine sands.
    - h. Well-graded and may contain rocks less than 4" in diameter.
- J. Filter Sock
  - 1. Minimum diameter of 12" woven or non-woven geosynthetic fabric filled with erosion control mix meeting the following requirements and as specified by the

"Maine Erosion and Sedimentation Control Best Management Practices" prepared by the Maine DEP:

- a. Organic matter content between 80-100%, dry weight
- b. Particle size by weight shall be 100% passing a 6" screen and 70-85% passing a 3/4" screen
- c. Organic portion must be fibrous and elongated.
- d. Soluble salts content shall be less than 4.0 mmhos/cm.
- e. pH should be between 5.0-8.0.
- f. Free from refuse, physical contaminants, and material toxic to plant growth such as fly ash or yard scraping.
- g. No large portions of silts, clays, or fine sands.
- h. Well-graded and may contain rocks less than 4" in diameter.

K. Catch Basin Inlet Protection

1. Inserts/Filter Sacks

- a. Catch basin inserts/filter sacks made of woven geotextile with rebar lifting handles.
- b. Seam strength that meets the following requirements (ASTM D-4884):

Parameter	MARV	Units
Maximum Load	852	Lbs
Maximum Strength	1280	Lb/ft

- c. Fabric strength that meets the following requirements (ASTM D-4884):

Property	Test Method	Units	MARV
Grab Tensile	ASTM D-4632	Lbs	281 x 170
Grab Elongation	ASTM D-4632	%	16 x 7
CBR Puncture	ASTM D-6241	Lbs	1005
Trapezoid Tear Strength	ASTM D-4533	Lbs	85 x 61
UV Resistance @ 500 Hours	ASTM D-4355	%	96
AOS	ASTM D-4751	U.S. Sieve	40
Flow Rate	ASTM D-4491	GPM/ft	38.5
Permittivity	ASTM D-4491	Sec. <sup>-1</sup>	0.51

2. Strawbales

- a. Surround perimeter of catch basin inlet with straw bales.
- b. Stake and embed strawbales 4 inches in ground.
- c. Not applicable for use on impervious surfaces.

3. Concrete Blocks

- a. 8-inch standard cement blocks placed on their side around the inlet and wrapped in geotextile fabric.
- b. Blocks shall be surrounded by ¾-inch minimum and 2-inch maximum clean crushed stone.
- c. Not applicable on slopes of more than 5%.

4. Silt Fence with Gravel
  - a. Silt fence may be placed around the perimeter of a catch basin and surrounded by ¾-inch minimum and 2-inch maximum clean crushed stone.
5. Sand-Filled Bags
  - a. Sand-filled bags butted together around the perimeter of the catch basin inlet.
  - b. Bags should be staggered and create a berm with a height no less than 12 inches.

## 2.2 CONSTRUCTION REQUIREMENTS

- A. Temporary Erosion Checks:
  1. Temporary erosion checks shall be constructed in ditches and other locations as necessary.
  2. Baled hay, sand bags or siltation fence may be used in an arrangement to fit local conditions.
- B. Temporary Berms:
  1. Temporary barriers shall be constructed along the toe of embankments when necessary to prevent erosion and sedimentation.
- C. Temporary Seeding:
  1. Areas to remain exposed for a time exceeding 3 weeks shall receive temporary seeding as indicated below:

<u>Season</u>	<u>Seed</u>	<u>Rate</u>
Summer (5/15 - 8/15)	Sudangrass	40 lbs/acre
Late Summer/Early Fall (8/15 - 9/15)	Oats	80 lbs/acre
Fall (9/15 - 10/1)	Annual Ryegrass	40 lbs/acre
Winter (10/1 - 4/1)	Winter Rye	112 lbs/acre
Spring (4/1 - 7/1)	Mulch w/Dormant Seed	80 lbs/acre*
	Oats	80 lbs/acre
	Annual Ryegrass	40 lbs/acre

\* seed rate only

- D. Silt Fence shall be supported by posts and installed per the manufacturer's recommendations.
  1. A trench 6-inches in width and 6-inches in depth should be excavated to toe in the bottom of the silt fence. The trench should be backfilled after the silt fence is installed.
- E. Mulch All Areas Receiving Seeding:
  1. Use either wood cellulose fiber mulch (750 lbs/acre); or straw mulch with chemical tack (as per manufacturer's specifications). Wetting for small areas may be permitted. Biodegradable netting is recommended in areas to be exposed to drainage flow.
- F. Erosion control matting for slopes and ditches shall be anchored with pegs and/or staples per manufacturer's recommendations. Contractor shall provide matting along the flowline of all ditches and swales having a longitudinal slope in excess of 0.01

ft/ft, and on all slopes in excess of 3(H) to 1(V).

### PART 3 - EXECUTION

#### 3.1 INSTALLATION

- A. Temporary Erosion Checks:
  - 1. Temporary erosion checks shall be constructed in ditches and at other locations designated by the Owner. The Owner may modify the Contractor's arrangement of silt fences, bales and bags to fit local conditions.
  - 2. Baled hay, silt fences, or sandbags, or some combination, may be used in other areas, as necessary, to inhibit soil erosion.
  - 3. Siltation fence shall be located and installed as shown on plans or as required to comply with all Federal, State and Local Regulations.
  - 4. Sedimentation ponds shall be sited and constructed to the grades and dimensions as shown on the Drawings and will include drainage pipe and an emergency spillway.
- B. Erosion control matting for slopes and ditches shall be installed where indicated on the Drawings and as required to stabilize the soil until permanent vegetative stabilization is established.
- C. Maintenance:
  - 1. Erosion control features shall be installed prior to excavation wherever appropriate. Temporary erosion control features shall remain in place and shall be maintained until a satisfactory growth of grass is established. The Contractor shall be responsible for maintaining erosion control features throughout the life of the construction contract. Maintenance will include periodic inspections by the Owner for effectiveness of location, installation and condition with corrective action taken by the Contractor, as appropriate.
- D. Removing and Disposing of Materials:
  - 1. When no longer needed, material and devices for temporary erosion control shall be removed and disposed of upon approval by Owner.
  - 2. When removed, such devices may be reused in other locations, provided they are in good condition and suitable to perform the erosion control for which they are intended.
  - 3. When dispersed over adjacent areas, the material shall be scattered to the extent that it causes no unsightly conditions nor creates future maintenance problems.
  - 4. Sedimentation basins, if no longer required, will be filled in, the pipe removed, the surface loamed and grass cover shall be established.

END OF SECTION

SECTION 02485LOAMING & SEEDINGPART 1 - GENERAL1.1 DESCRIPTION

- A. Work Included: Furnish, place, and test topsoil, seed, lime, and fertilizer where shown on the drawings and protect and maintain seeded areas disturbed by construction work, as directed by the Owner.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 TESTING

## A. Seed:

1. Each lot of seed shall be subject to sampling and testing, at the discretion of the Owner, in accordance with the latest rules and regulations under the Federal Seed Act.

## B. Topsoil:

1. Inform the Owner, within 30 days after the award of the Contract, of the sources from which the topsoil is to be furnished.
2. Obtain representative soil samples, taken from several locations in the area under consideration for topsoil removal, to the full stripping depth.
3. Have soil samples tested by an independent soils testing laboratory, approved by the Owner, at the Contractor's expense.
4. Have soil samples tested for physical properties and pH (or lime requirement), for organic matter, available phosphoric acid, and available potash, in accordance with standard practices of soil testing.
5. Approval, by the Owner, to use topsoil for the work will be dependent upon the results of the soils tests.

## C. Lime &amp; Fertilizer:

1. Each lot of lime and fertilizer shall be subject to sampling and testing at the discretion of the Owner.
2. Sampling and testing shall be in accordance with the official methods of the Association of Official Agricultural Chemists.
3. Upon completion of the project, a final check may be made comparing the total quantities of fertilizer and lime used to the total area seeded. If the minimum rates of application have not been met, the Owner may require the Contractor to distribute additional quantities of these materials to meet the minimum rates.

1.4 DELIVERY, STORAGE & HANDLING

## A. Seed:

1. Furnish all seed in sealed standard containers, unless exception is granted in writing by the Owner.

2. Containers shall be labeled in accordance with the United States Department of Agriculture's rules and regulations under the Federal Seed Act in effect at the time of purchase.
- B. Fertilizer:
1. Furnish all fertilizer in unopened original containers.
  2. Containers shall be labeled with the manufacturer's statement of analysis.

## 1.5 JOB CONDITIONS

- A. Topsoil: Do not place or spread topsoil when the subgrade is frozen, excessively wet or dry, or in any condition otherwise detrimental, in the opinion of the Owner, to the proposed planting or to proper grading.
- B. Seeding:
1. Planting Seasons: The recommended seeding time is from April 1 to September 15. The Contractor may seed at other times. Regardless of the time of seeding, the Contractor shall be responsible for each seeded area until it is accepted.
  2. Weather Conditions:
    - a. Do not perform seeding work when weather conditions are such that beneficial results are not likely to be obtained, such as drought, excessive moisture, or high winds.
    - b. Stop the seeding work when, in the opinion of the Owner, weather conditions are not favorable.
    - c. Resume the work only when, in the opinion of the Owner, conditions become favorable, or when approved alternate or corrective measures and procedures are placed into effect.

## PART 2 - PRODUCTS

### 2.1 MATERIALS

- A. Seed:
1. Fresh, clean, new crop seed. Seed may be mixed by an approved method on the site, or may be mixed by the dealer. If the seed is mixed on the site, each variety shall be delivered in the original containers which shall bear the dealer's guaranteed statement of the composition of the mixture and the percentage of purity of each variety. The Dealers Guarantee Statement shall be delivered to the Owner.
  2. Grass seed shall be composed of the following varieties which shall be mixed in the proportions and shall test to 85 percent minimum purity, 85 percent pure live seed, 80 percent minimum germination, and less than 1 percent weed seed.
  3. Grass seed mixture shall conform to Maine DOT Standard Specification Section 717.03.
  4. Provide the grass seed mixture approved by the Owner, having the following composition:
    - a. Roadside Mixture:

i. Red Fescue	35 percent (+/- 4 percent)
ii. Sheep Fescue	35 percent (+/- 4 percent)
iii. Red Top	5 percent (+/- 2 percent)
iv. White Clover	6 percent (+/- 2 percent)

- v. Annual Rye 19 percent (+/- 2 percent)
- 5. Do not use seed which has become wet, moldy, or otherwise damaged in transit or during storage.
- B. Topsoil:
  - 1. Fertile, friable, natural topsoil typical of the locality, without admixture of subsoil, refuse or other foreign materials and obtained from a well-drained site. Mixture of sand, silt, and clay particles in equal proportions.
  - 2. Free of stumps, roots, heavy of stiff clay, stones larger than 1-inch in diameter, lumps, coarse sand, weeds, sticks, brush or other deleterious matter.
  - 3. Not less than 4 percent nor more than 20 percent organic matter.
  - 4. Topsoil depth shall be 4-inches, unless otherwise indicated.
- C. Lime:
  - 1. Provide lime which is ground limestone containing not less than 85% of total carbonate and of such fineness that 90% will pass a No. 20 sieve and 50% will pass a No. 100 sieve.
  - 2. Coarser materials will be acceptable provided the specified rates of application are increased proportionately on the basis of quantities passing a No. 100 sieve. No additional payment will be made to the Contractor for the increased quantity.
- D. Fertilizer:
  - 1. Provide a commercial fertilizer approved by the Owner.
  - 2. Provide fertilizer containing the following minimum percentage of nutrients by weight:
    - 10% Available phosphoric acid
    - 10% Available potash
    - 10% Available nitrogen (75% of the nitrogen shall be organic)

## PART 3 - EXECUTION

### 3.1 PREPARATION

- A. Equipment:
  - 1. Provide all equipment necessary for the proper preparation of the ground surface and for the handling and placing of all required materials.
  - 2. Demonstrate to the Owner that the equipment will apply materials at the specified rates.
- B. Soil: Perform the following work prior to the application of lime, fertilizer or seed.
  - 1. Scarify the subgrade to a depth of 2 inches to allow the bonding of the topsoil with the subsoil.
  - 2. Apply topsoil to a depth of 4 inches or as directed on areas to be seeded.
  - 3. Trim and rake the topsoil to true grades free from unsightly variations, humps, ridges or depressions.
  - 4. Remove all objectionable material and form a finely pulverized seed bed.

### 3.2 PERFORMANCE

- A. Grading:
  - 1. Grade the areas to be seeded as shown on the Drawings or as directed by the Owner.



2. Leave all surfaces in even and properly compacted condition.
  3. Maintain grades on the areas to be seeded in true and even conditions, including any necessary repairs to previously graded areas.
- B. Placing Topsoil:
1. Uniformly distribute and evenly spread topsoil on the designated areas.
  2. Spread the topsoil in such a manner that planting work can be performed with little additional soil preparation or tillage.
  3. Correct any irregularities in the surface resulting from topsoiling or other operations to prevent the formation of depressions where water may stand.
  4. Thoroughly till the topsoil to a depth of at least 3 inches by plowing, harrowing, or other approved method until the condition of the soil is acceptable to the Owner. The surface shall be cleared of all debris and or stones one inch or more in diameter.
- C. Placing Fertilizer:
1. Distribute fertilizer uniformly at a rate determined by the soils test over the areas to be seeded.
  2. Incorporate fertilizer into the soil to a depth of at least 3 inches by discing, harrowing, or other methods acceptable to the Owner.
  3. The incorporation of fertilizer may be a part of the tillage operation specified above.
  4. Distribution by means of an approved seed drill equipped to sow seed and distribute fertilizer at the same time will be acceptable.
- D. Placing Lime:
1. Uniformly distribute lime immediately following or simultaneously with the incorporation of fertilizer.
  2. Distribute lime at a rate determined from the pH test, to a depth of at least 3 inches by discing, harrowing, or other methods acceptable to the Owner.
- E. Seeding:
1. Fine rake and level out any undulations or irregularities in the surface resulting from tillage, fertilizing, liming or other operations before starting seeding operations.
  2. Hydroseeding:
    - a. Hydroseeding may be performed where approved and with equipment approved by the Owner.
    - b. Sow the seed over designated areas at a minimum rate of 5 pounds per 1000 square feet.
    - c. Seed and fertilizing materials shall be kept thoroughly agitated in order to maintain a uniform suspension within the tank of the hydroseeder.
    - d. The spraying equipment must be designed and operated to distribute seed and fertilizing materials evenly and uniformly on the designated areas at the required rates.
  3. Drill Seeding:
    - a. Drill seeding may be performed with approved equipment having drills not more than 2 inches apart.
    - b. Sow the seed uniformly over the designated areas to a depth of 1/2 inch and at a rate of 5 pounds per 1,000 square feet.

4. Broadcast Seeding:
  - a. Broadcast seeding may be performed by equipment approved by the Owner.
  - b. Sow the seed uniformly over the designated areas at a rate of 5 pounds per 1,000 square feet.
  - c. Sow half the seed with the equipment moving in one direction and the remainder of the seed with the equipment moving at right angles to the first sowing.
  - d. Cover the seed to an average depth of 1/2 inch by means of a brush harrow, spike-tooth harrow, chain harrow, cultipacker, or other approved devices.
  - e. Do not perform broadcast seeding work during windy weather.
- F. Compacting:
  1. Seeded areas must be raked lightly after sowing unless seeding is to be directly followed by application of an approved mulch.
  2. Compact the entire area immediately after the seeding operations have been completed.
  3. Compact by means of a cultipacker, roller, or other equipment approved by the Owner weighing 60 to 90 pounds per linear foot of roller.
  4. If the soil is of such type that a smooth or corrugated roller cannot be operated satisfactorily, use a pneumatic roller (not wobbly wheel) that has tires of sufficient size to obtain complete coverage of the soil.
  5. When using a cultipacker or similar equipment, perform the final rolling at right angles to the prevailing slopes to prevent water erosion, or at right angles to the prevailing wind to prevent dust.
- G. Mulching for Permanent Seeding:
  1. Apply mulch at the specified rate for the given type and as specified by the “Maine Erosion and Sedimentation Control Best Management Practices” prepared by the Maine DEP.
  2. Erosion Control Mix must contain some soil.
  3. Hydraulic mulches, such as paper mulch and cellulose fiber, can include seeds, fertilizer, or soil binders.

<b>Maine</b>	
<b>Mulch Type</b>	<b>Rate</b>
Straw	2 bales (70-90lbs)/1,000 SF
Erosion Control Mix	<3:1 Slope: 2 inches min. >3:1 Slope: 4 inches min.
Paper Mulch	5 lbs/1,000 SF
Cellulose Fiber	40 lbs/1,000 SF
Erosion Control Blankets	Per manufacturer’s instructions
Wood Chips and Bark Mulch	3 inches min.

### 3.3 PROTECTION & MAINTENANCE

- A. Protection:
  1. Protect the seeded area against traffic or other use.
  2. Erect barricades and place warning signs as needed.

B. Maintenance:

1. At the time of the first cutting, set mower blades two inches high. All lawns shall receive at least two mowings before acceptance. Coordinate schedule for mowing with Owner.
2. Maintenance shall also include all temporary protection fences, barriers and signs and all other work incidental to proper maintenance.
3. Maintain grass areas until a full stand of grass is indicated, which will be a minimum of 45 days after all seeding work is completed, and shall not necessarily related to Substantial Completion of the General Contract.
4. Protection and maintenance of grass areas shall consist of watering, weeding, cutting, repair of any erosion and reseeding as necessary to establish a uniform stand for the specified grasses, and shall continue until Acceptance by the Owner of the work of this section. It shall also include the furnishing and applying of such pesticides as are necessary to keep grass areas free of insects and disease. All pesticides shall be approved by Owner prior to use.

3.4 ACCEPTANCE

- A. At final acceptance of the project all areas shall have a close stand of grass with no weeds present and no bare spots greater than three inches (3") in diameter over greater than five percent (5%) of the overall seeded area.

END OF SECTION

SECTION 02513ABITUMINOUS CONCRETE PAVING (MAINE)PART 1 - GENERAL1.1 DESCRIPTION

## A. Work Included:

1. Furnish all plant, labor, equipment and materials required to install bituminous concrete pavement courses, including sidewalks, driveways, temporary and permanent trench paving and restoration of pavement markings as shown on the Drawings and as specified herein.
2. Remove bituminous asphaltic and/or Portland cement pavement, and replace bituminous asphaltic pavement, base, binder courses and surface courses, including temporary pavement, within the area(s) directed by the Owner.
3. Keep pavement removal to a minimum width suitable for the required construction.
4. Apply pavement markings to the permanent paving as specified.

## B. Work Not Included: Removal and replacement of paving for the convenience of the Contractor will not be considered for payment.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

## A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 QUALITY ASSURANCE

- A. Materials: Use only materials furnished by a bulk bituminous concrete producer regularly engaged in the production of hot mixed, hot laid bituminous concrete.
- B. Equipment: Provide, maintain and operate pavers, dump trucks, tandem, 3-wheel and pneumatic tired rollers well suited to the mixtures being placed. Provide, maintain and operate hand equipment as required. When applicable, provide, maintain and operate trimming equipment and materials.
- C. Mix Requirements, Method of Placement and Compaction: All mixes shall conform to the State of Maine Department of Transportation's SUPERPAVE mix standards.

PART 2 - PRODUCTS2.1 MATERIALS

## A. Hot Bituminous Paving Mix:

1. Binder Course - Maine D.O.T. Type 19.0 mm Superpave Mix
2. Surface Course - Maine D.O.T. Type 12.5 mm Superpave Mix
3. Sidewalks and Drives - Maine D.O.T. Type 9.5 mm Superpave Mix
4. Deep Lifts in Full Construction - Maine D.O.T. Type 25.0 Superpave Mix.

## B. Composition of Mixtures - Control Points

SIEVE SIZE	GRADING			
	TYPE 25 mm	TYPE 19 mm	TYPE 12.5 mm	TYPE 9.5 mm
	PERCENT BY WEIGHT PASSING - COMBINED AGGREGATE			
37.5 mm	100			
25 mm	90-100	100		
19 mm	-90	90-100	100	
12.5 mm	-	-90	90-100	100
9.5 mm	-	-	-90	90-100
4.75 mm	-	-	-	-90
2.36 mm	15-41	23-49	28-58	32-67
1.18 mm	-	-	-	-
0.60 mm	-	-	-	-
0.30 mm	-	-	-	-
0.075 mm	1-7	2-8	2-10	2-10

- C. Tack Coat:
  - 1. Emulsified type, Grade RS-1, CRS-1, HFMS-1, CSS-1, 1h
- D. Pavement markings shall be in accordance with Section 02577.

**PART 3 - EXECUTION**

**3.1 GENERAL**

- A. Grade Control:
  - 1. The Contractor shall establish and maintain the required lines and grades, including crown and cross-slope, for each course during construction operations.
- B. Trench areas shall receive initial paving as the work progresses where trenches are in paved streets. Not more than 300 linear feet of backfill trench shall be left unpaved.
- C. Reset all existing manholes to finished grade as required at no additional cost to the Owner.

**3.2 PAVEMENT REMOVAL**

- A. General:
  - 1. Exercise extreme care in the removal of pavement so that pavement will not be unnecessarily disturbed or destroyed.
  - 2. Mechanically cut pavement to be removed to a straight line, unless otherwise directed by the Owner.
  - 3. All pavement removed shall become the property of the Contractor and disposed of at locations acceptable to or designated by the Owner at no additional cost to the Owner.
- B. Maine DOT Areas:
  - 1. When removing pavement under the jurisdiction of the Maine DOT, strictly adhere to all DOT regulations controlling pavement openings.

**3.3 SURFACE PREPARATION**

- A. Tack coats shall conform to Section 410 of the Maine D.O.T. Standard

Specifications.

- B. Tack Coat:
  - 1. Apply to contact surfaces of previously constructed asphalt or Portland cement concrete and surfaces abutting or projecting into asphalt concrete pavement. Distribute at rate of 0.05 to 0.15 gallons per square yard of surface.

### 3.4 WEATHER AND SEASONAL LIMITATIONS

- A. The State is divided into 2 paving zones as follows:
  - 1. Zone 1 - Areas north of US Route 2 from Gilead to Bangor and north of Route 9 from Bangor to Calais.
  - 2. Zone 2 - Areas south of Zone 1 including the US Route 2 and Route 9 boundaries.
- B. The Contractor may place Hot Mix Asphalt Pavement for use other than a traveled way wearing course in either Zone between the dates of April 15th and November 15th, provided that the air temperature as determined by an approved thermometer (placed in the shade at the paving location) is 2°C or higher and the area to be paved is not frozen. The Contractor may place Hot Mix Asphalt Pavement as traveled way wearing course in Zone 1 between the dates of May 1st and the Saturday following October 1st and in Zone 2 between the dates of April 15th and the Saturday following October 15th, provided the air temperature determined as above is 10°C or higher. For the purpose of this Subsection, the traveled way includes truck lanes, ramps, approach roads and auxiliary lanes.
- C. Hot Mix Asphalt Pavement used for curb, driveways, sidewalks, islands, or other incidentals is not subject to seasonal limitations, except that conditions shall be satisfactory for proper handling and finishing of the mixture. Unless otherwise specified, the Contractor shall not place Hot Mix Asphalt Pavement on a wet or frozen surface, and the air temperature shall be 2°C or higher.

### 3.5 PLACING THE MIX

- A. General:
  - 1. Place asphalt concrete mixture on prepared surface. The temperature of the mixture shall be measured at the truck and at the paver unless otherwise authorized by the Owner. The temperature of the mixture shall be within the following tolerances:

PGAB Grade(s)	Temperature Range (°F)
PG58-28/PG64-28	275-325
PG64E-28/PG70E-28	285-335

- 2. Place in areas inaccessible to paving machine and small areas by hand. Place each course to required grade, cross-slope and compacted thickness.
- B. Protection:
  - 1. After final rolling, do not permit vehicular traffic on pavement until it has cooled and hardened to the extent that the pavement will not be damaged.

### 3.6 PAVEMENT MARKINGS

- A. Material, approved by the Owner, is to be furnished and applied after the installation

- of permanent paving.
- B. Apply pavement markings in accordance with existing markings. Match paint color, marking dimensions, layout and other details with existing markings in the vicinity of the project.

END OF SECTION

SECTION 02527BITUMINOUS CONCRETE CURBSPART 1 - GENERAL1.1 DESCRIPTION

## A. Work Included:

1. This work shall consist of constructing a hot-mixed, hot-laid bituminous concrete curb on a completed bituminous surface in accordance with these Specifications.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

1.3 QUALITY ASSURANCE

- A. Use only materials which are furnished by a bulk bituminous concrete producer which is regularly engaged in production of hot-mix, hot laid bituminous concrete and approved for use by the MDOT.

1.4 JOB CONDITIONS

## A. Weather Limitations:

1. Bituminous concrete curbs shall not be placed on a wet surface.
2. Construct between the dates of May 1 and November 22, and then only when the air temperature in the shade is 40° F or above.

PART 2 - PRODUCTS2.1 MATERIALS

- A. Materials for bituminous concrete curbing shall be as required in Section 609 of the State of Maine Department of Transportation's "Standard Specifications for Highways and Bridges," latest version.

PART 3 - EXECUTION3.1 PERFORMANCE

## A. Conditioning of the Existing Surface:

1. Thoroughly clean of all objectionable material.
2. Apply a light tack coat of 0.08 to 0.20 gallons per fifteen linear feet of curb area.

## B. Equipment:

1. The curb shall be placed by an approved power operated extruding type machine using the shape mold called for. A tight bond shall be obtained between the base and the curb. The Owner may permit the placing of curbing by other than mechanical curb placing machines when short sections or sections



with short radii are required. The resulting curbing shall conform in all respects to the curbing produced by the machine.

- C. Placing:
  - 1. Place mix at temperature between 275 - 325°F.
  - 2. Where conditions necessitate joints in curb, they shall be constructed to ensure bond between old and new sections of the curb. Prior to placing the new curb material, the old joint shall be tack coated.
- D. Curing:
  - 1. Protect from traffic until the heat of the mix has dissipated and the mix has obtained the proper hardness.
- E. Backfilling:
  - 1. Backfill as soon as possible after mix has obtained the proper degree of hardness.

END OF SECTION

SECTION 02577PAVEMENT MARKINGS - MAINEPART 1 - GENERAL1.1 DESCRIPTION

## A. Work Included:

1. This work shall consist of providing final reflective pavement lines and markings during paving operations as shown on the plans. It shall consist of providing temporary pavement markings during construction.

1.2 REQUIREMENTS SPECIFIED ELSEWHERE

- A. Additional Requirements are specified elsewhere including, but not necessarily limited to, General Conditions, Supplementary Conditions, and Division 1.

PART 2 - PRODUCTS2.1 MATERIALS - TAPE

## A. Performed Plastic:

1. General - Reflectorized pavement marking tape and marking sheeting, performed into rolls or ribbons of various lengths, pliability, and widths suitable for use as reflective markings on Portland cement concrete or bituminous pavement shall consist of a mixture of high-quality polymeric materials, pigments, or glass beads that are uniformly distributed throughout, with a reflective layer of beads bonded to the top. The edges of the performed material shall be clean cut and true. It may be supplied with a precoated, factory applied adhesive for immediate pavement application without the use of heat, solvent or other types of adhesive operations, or it may be furnished with separate adhesives as recommended by the manufacturer. The affixed material shall be capable of molding itself to the pavement contoured by the action of traffic and maintain its original dimensions and placement under normal traffic conditions at the pavement temperatures, which could occur within Maine.
2. Physical Requirements - Color Pigments shall be selected and blended to conform to standard highway colors throughout the expected life of the material. When tested by Federal Test Method Standard 141 Method 4232, the white shall be no darker than Color Number 37778 of Federal Standard number 595 and the yellow shall conform to Color Number 33538 of Federal Standard Number 595 (Highway yellow Color PR#1).
3. Retro-Reflectivity - The retro-reflective performed film shall have a layer of reflective spheres bonded to the top surface. The white and yellow film shall have the following initial minimum retroreflectance values at 0.2° and 0.5° observation angles and 86° entrance angle as measured in accordance with the photometric testing procedures of ASTM D4061. Retroreflectance values shall be expressed as specific luminance in millicandelas per square meter per lux (medm 2lx 1) [millicandelas per square foot/foot candle (med ft 2fc 1)]

	White		Yellow	
Observation Angle	0.2°	0.5°	0.2°	0.5°
SL[medm <sup>2</sup> lx <sup>-1</sup> ] [med ft <sup>2</sup> fc <sup>-1</sup> ]	550	380	410	250

The test distance shall be 15 m [50 feet] and the sample size a 600 mm by 750 mm [3 feet by 2.5 feet] rectangle. The angular aperture of both the photoreceptor and light projector shall be 10 minutes of arc. The reference center of the sample and the reference axis shall be taken perpendicular to the test sample.

4. **Bead Retention** - When tested with a 50 mm by 150 mm [2 in by 6 in] sample bent over a 13 mm [½ in] diameter mandrel with the 50 mm [2 in] dimension perpendicular to the mandrel axis, microscopic examination of the arc on the mandrel shall show no more than 10% of the beads are entrapped in the binder and less than 40% of the surface of the bead.
5. **Application** - The preformed plastic material shall be capable of application to non-defective pavement surfaces that are dry and free from dirt or other foreign matter. For normal application, the pavement temperature should be at least 15°C [60°F] and rising.
6. **Special Instructions** - Special instructions should be supplied by the vendor for application to be made at pavement temperatures below 15°C [60°F]. Application shall be according to manufacturer's recommended procedures. Plastic pavement marking materials shall only be applied to surfaces with temperatures within the range specified by the manufacturer for optimum adhesion.
7. **Adhesive, Activators or Special Coatings** - Adhesive, activators or special coatings for various types of pavement surfaces shall be provided with the preformed plastic material. Detailed information must be supplied with the material outlining required application procedures for such adhesives, activators, or special coating.
8. **Preformed Plastics** - Performed plastics shall be capable of being applied to new asphalt pavement immediately prior to the final rolling of the new surface and of being rolled into place with conventional pavement and highway rollers. The plastic material and adhesives used in such applications shall be of the type that water used on the roller to prevent asphalt pickup shall not be harmful to the successful application of the plastic.
9. **Special Equipment** - Special equipment necessary for the successful installation of any preformed plastic material shall be available from the manufacturer of the plastic material on a lease, loan, or purchase basis. These materials following application shall be immediately ready for traffic without any damage to the material surface or injuries to passing vehicles. The retro reflective pavement marking tapes are intended for use as longitudinal lines such as lane lines, edge lines, channelization lines, gore markings or stop bars and crosswalk lines, and shall be inlaid into new asphaltic concrete by using a steel pavement roller while the pavement is at temperatures between 130°F. and 150°F.

## 2.2 MATERIALS -PAINT

- A. Pavement Marking Paint for final and temporary pavement marking shall meet the requirements of Federal Specification TT-P-1952E. Either Type N, regular dry traffic paint or Type F, fast dry traffic paint may be used.

## PART 3 - EXECUTION

### 3.1 GENERAL

- A. All pavement lines and markings shall be applied in accordance with the Manual on Uniform Traffic Control Devices. Longitudinal lines placed on tangent roadway segments shall be straight and true. Longitudinal lines placed on curves shall be continuous smoothly curved lines consistent with the roadway alignment. All pavement markings placed shall meet the tolerance limits shown on the plans.
- B. Broken lines shall consist of alternate 3 m [10 ft] painted line segments and 9m [30 ft] gaps. Temporary pavement marking lines, will be applied as many times as necessary to properly delineate traffic lanes for the safe passage of traffic. Bi-directional delineators may be used in place of temporary lines. Delineators will be applied at 12 m [40 ft] intervals.
- C. In overnight lane closure areas that are not to be overlaid, temporary plastic lines or raised pavement markers shall be used through the length of the taper.
- D. The plastic final pavement lines and markings shall be applied in accordance with the manufacturer's recommendations by the inlay method of application.

### 3.2 ESTABLISHMENT PERIOD

- A. Inlaid plastic pavement lines and marking material furnished and installed under this contract for final pavement markings shall still be subject to a six-month period of establishment.
- B. The period of establishment shall commence as soon as the plastic pavement lines and markings are complete and in place and shall continue for six months. At the end of the establishment period, a minimum of 95% of the plastic pavement lines and markings shall still be in place to be acceptable.
- C. If less than 95% of the plastic pavement lines and markings are in place after six months, the Contractor shall replace all unsatisfactory plastic pavement lines and markings on the project without additional payment. Plastic pavement lines and markings designated for replacement shall be installed according to these specifications, unless otherwise directed. Plastic pavement lines and markings replaced at the end of the six month establishment period will not be subject to a further establishment period.

### 3.3 PAVEMENT MARKING TAPE MATERIAL REPLACEMENT PROVISION GUARANTEE

- A. The Contractor shall supply the Owner with a written guarantee for a minimum of two years for all materials contained in these specifications.
- B. The period of guarantee shall begin from the date of application to the road.

### 3.4 PREPARATION OF SURFACE FOR PAINT

- A. Immediately before applying the pavement marking paint to the pavement or curb,

the surface shall be dry and entirely free from dirt, grease, oil, or other foreign matter. Surface preparation for application of plastic markings shall conform to the manufacturer's recommendations.

### 3.5 APPLICATION OF PAINT

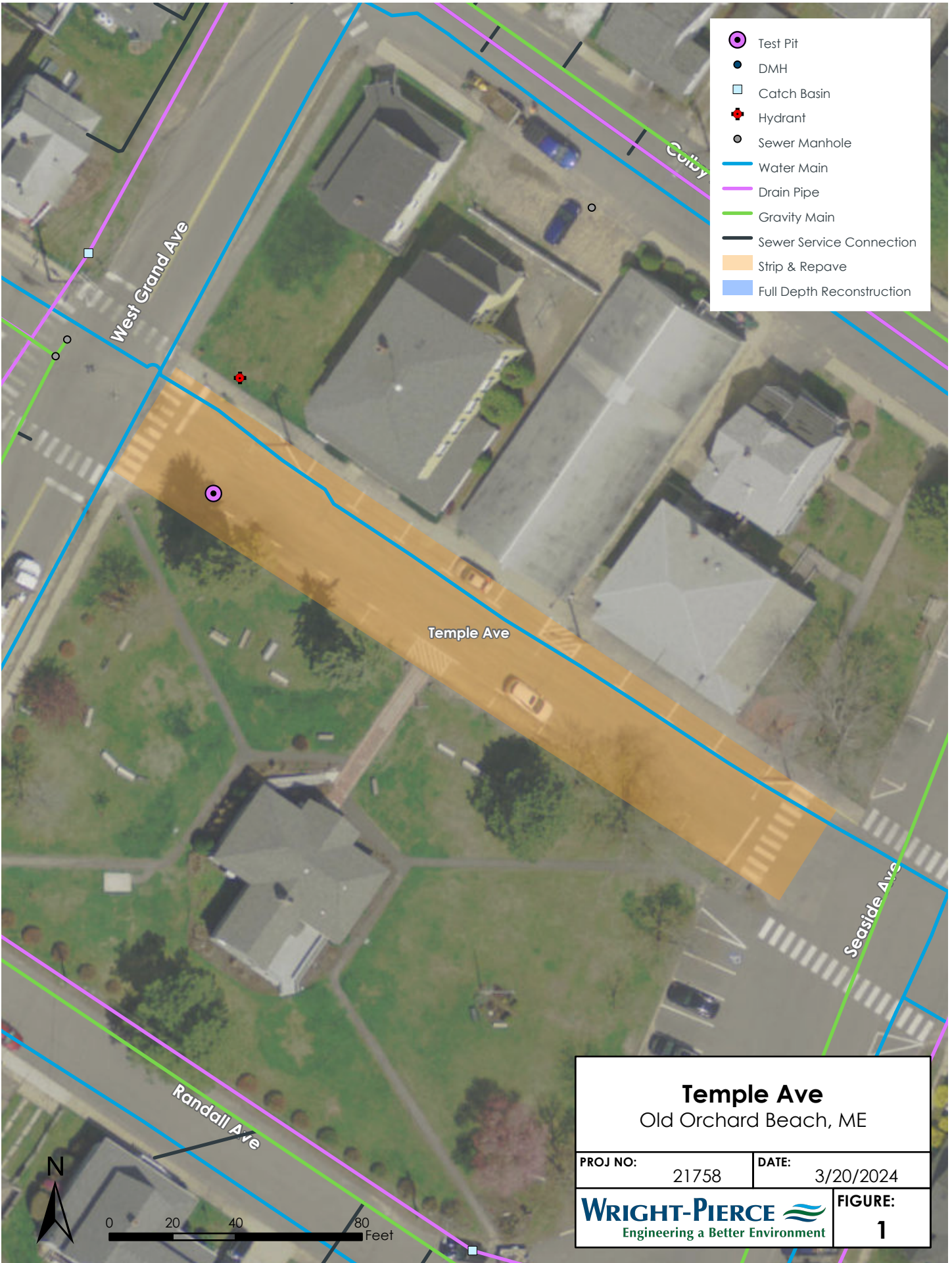
- A. Prior to applying paint for final pavement lines, the Contractor shall perform a test for paint thickness by furnishing and placing a piece of smooth, clean metal with an area of at least 0.1 m<sup>2</sup> [144 in<sup>2</sup>] in the path of the striping truck. The striping truck shall be passed over the piece of metal, painting the surface as it passes, without applying beads. The result of this test will be used to determine the pressure setting and speed of the truck when applying paint to obtain the specified thickness. Additional paint thickness testing may be required on the final paint markings. The wet thickness of paint without beads on final pavement lines shall be a minimum of 0.400 mm [16 mils].
- B. On other final pavement markings and on curb, where the paint is applied by hand painting or spraying, application shall be in two uniform covering coats, each at least 0.25 mm [10 mils] thick. Before the second coat of paint has dried, the glass beads shall be applied by a pressure system that will force the glass beads onto the undried paint as uniformly as possible.
- C. Glass beads shall be applied to the final and temporary pavement lines, marking and curb at the rate of 0.72 kg/L [4.5 lb/gal] of paint and in sufficient quantity to assure complete and uniform coverage of hand painted surfaces.
- D. Temporary painted lines and markings shall be applied as specified for permanent painted lines, except that the thickness shall be a minimum of 0.400 mm [16 mils].
- E. Temporary pliant polymer marking material shall be used for temporary markings on the final pavement and on pavements not to be resurfaced when such pavement markings do not conform to the final pavement markings pattern.
- F. Newly painted lines, markings and curb shall be protected from traffic by the use of cones, stationary vehicles or other approved methods until the paint is dry.

### 3.6 REMOVING LINES AND MARKINGS

- A. When it is necessary to remove pavement lines and markings, it shall be done by grinding, high temperature flame, sand blasting, solvent or other acceptable means. The method chosen must be capable of completely eradicating the existing line or marking without damage to the pavement. Burning and grinding to remove temporary markings from final pavement or from existing pavement not to be resurfaced will not be permitted.

END OF SECTION

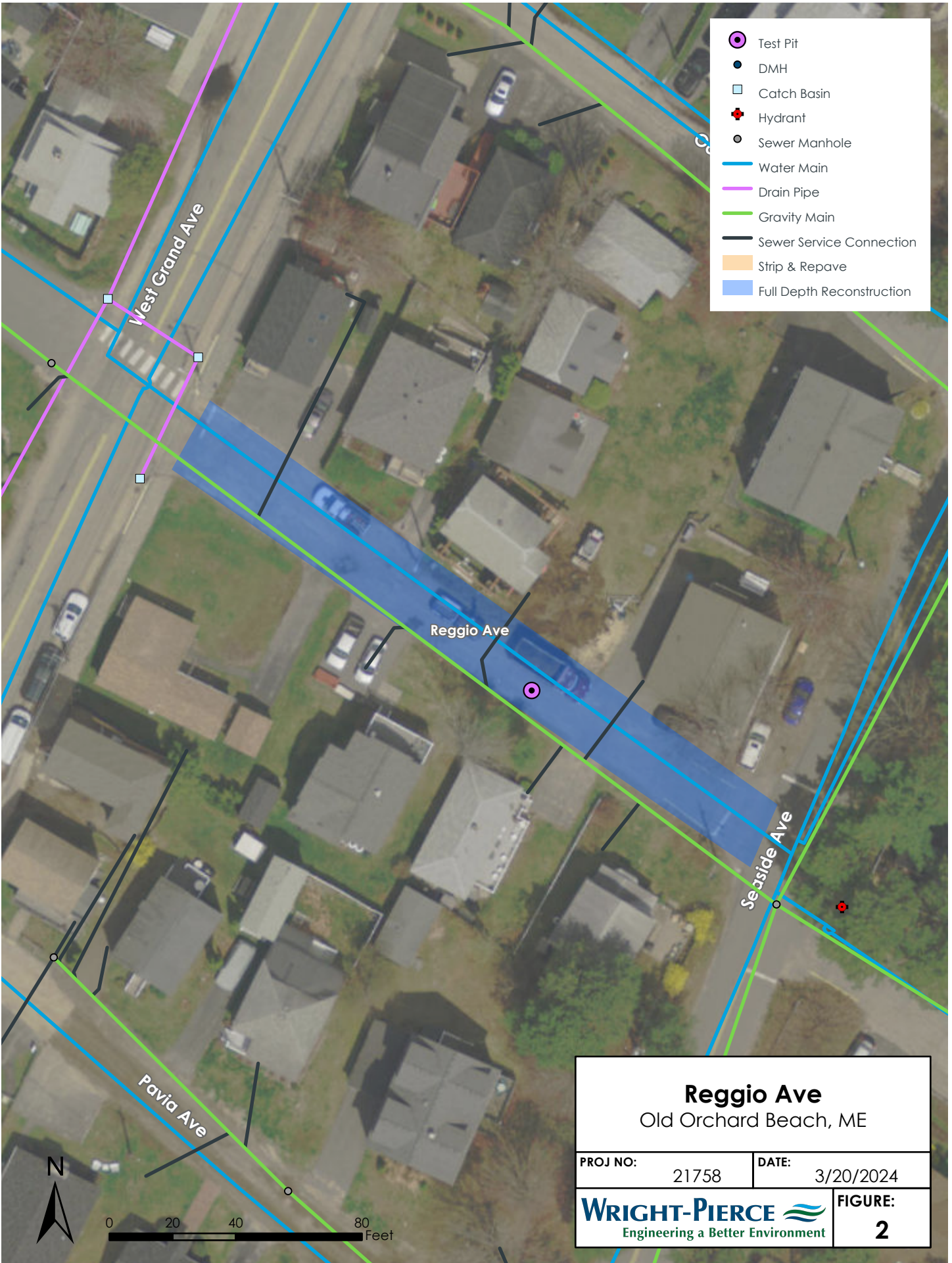
**APPENDIX A**  
**Road Reconstruction Figures**



- Test Pit
- DMH
- Catch Basin
- Hydrant
- Sewer Manhole
- Water Main
- Drain Pipe
- Gravity Main
- Sewer Service Connection
- Strip & Repave
- Full Depth Reconstruction

<b>Temple Ave</b> Old Orchard Beach, ME	
PROJ NO: 21758	DATE: 3/20/2024
<b>WRIGHT-PIERCE</b> <b>FIGURE:</b> Engineering a Better Environment <span style="float: right; font-size: 2em;">1</span>	





## Reggio Ave

Old Orchard Beach, ME

PROJ NO: 21758      DATE: 3/20/2024

**WRIGHT-PIERCE**  
Engineering a Better Environment

FIGURE:  
**2**





0 20 40 80 Feet





- Test Pit
- DMH
- Catch Basin
- Hydrant
- Sewer Manhole
- Water Main
- Drain Pipe
- Gravity Main
- Sewer Service Connection
- Strip & Repave
- Full Depth Reconstruction

### Wilbur Ave

Old Orchard Beach, ME

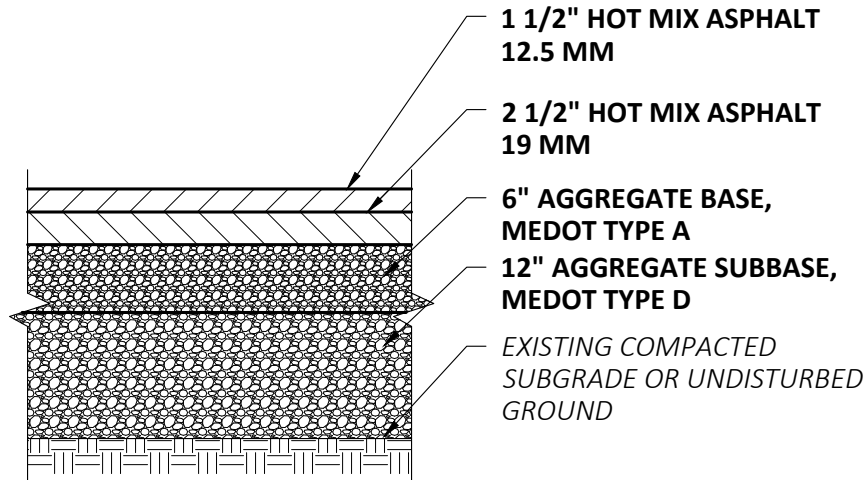
PROJ NO: 21758

DATE: 3/20/2024

**WRIGHT-PIERCE**  
Engineering a Better Environment

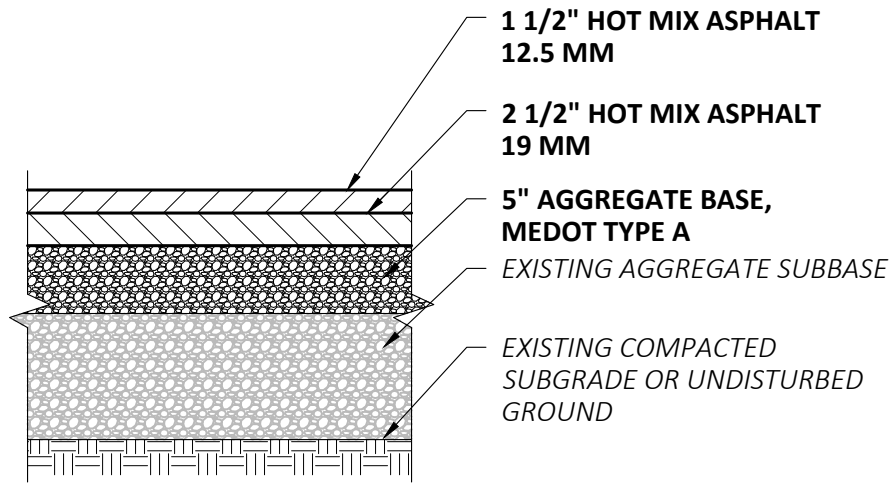
FIGURE:  
**4**

**APPENDIX B**  
**Roadway Details**



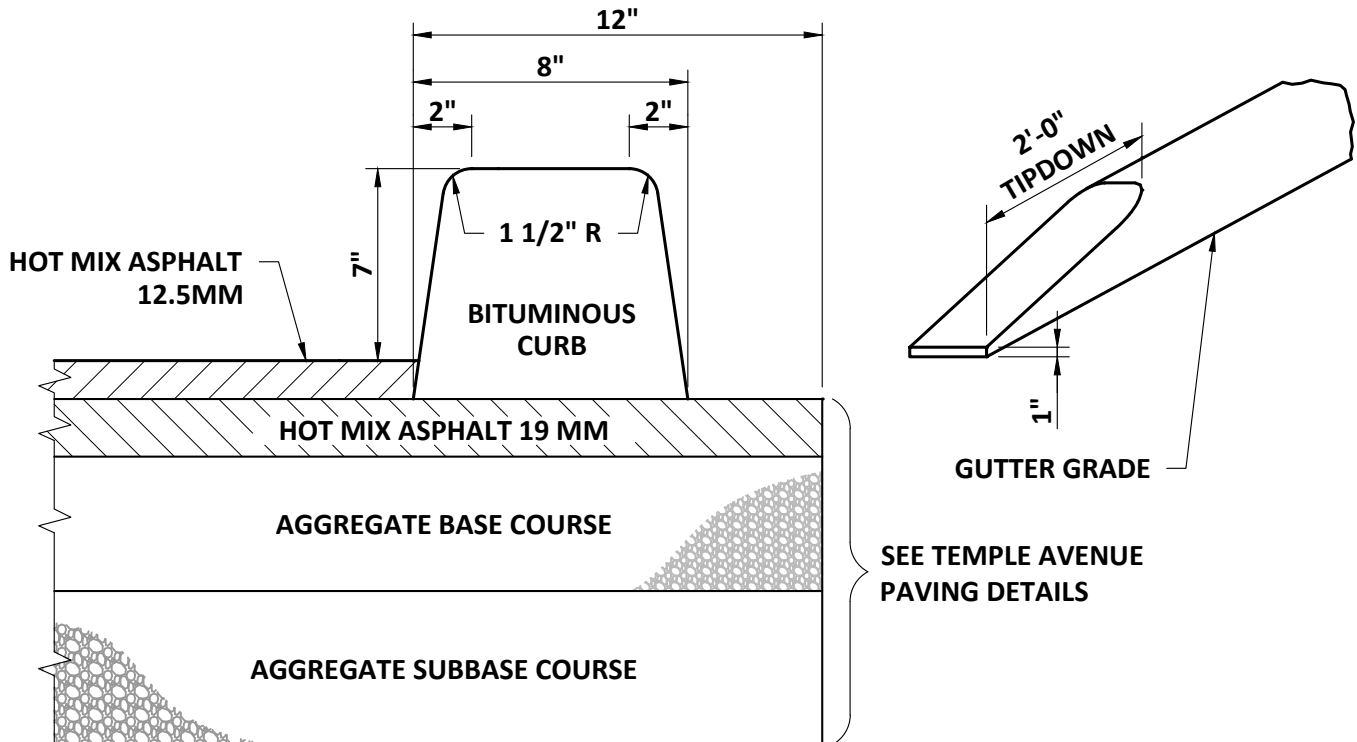
**REGGIO AVENUE, WILLIAMS STREET, AND  
WILBUR AVENUE PAVEMENT SECTION**  
SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH 2024 CIP PAVING PROJECTS OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE:	
	<b>DETAILS</b>			<b>1</b>



## TEMPLE AVENUE PAVEMENT SECTION

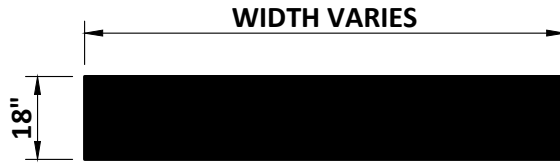
SCALE: NTS



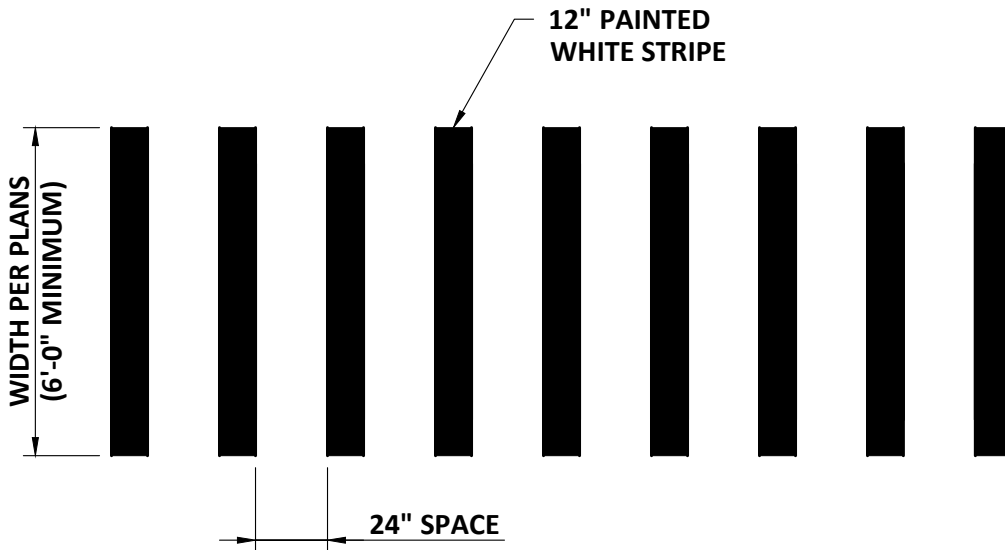
## BITUMINOUS CURB & TERMINAL CURB

SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH 2024 CIP PAVING PROJECTS OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: 2	
<b>DETAILS</b>				

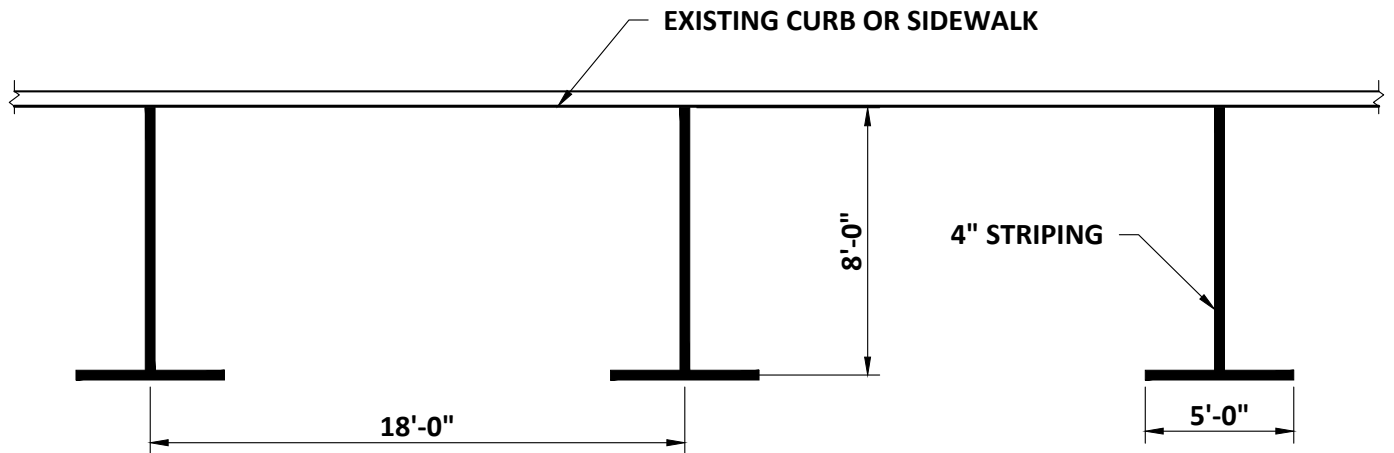


**PAINTED STOP BAR**  
SCALE: NTS



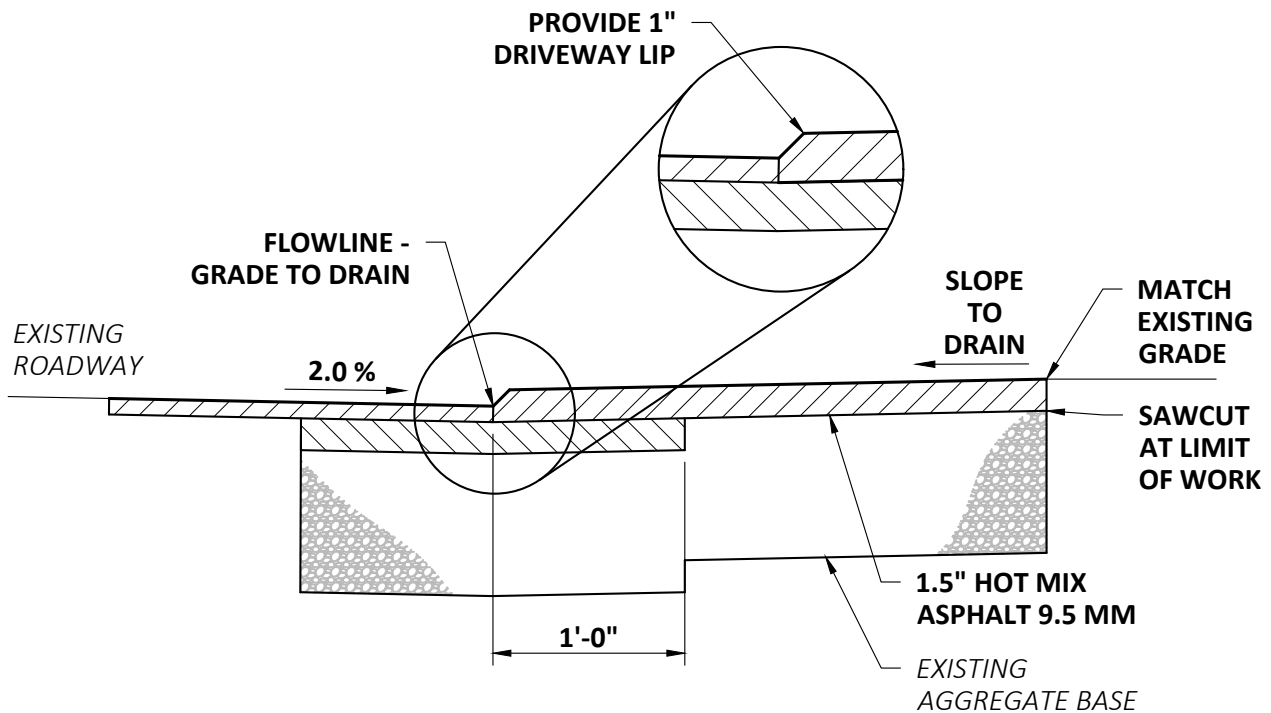
**CROSSWALK LAYOUT**  
SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH</b> <b>2024 CIP PAVING PROJECTS</b> <b>OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: 3	
<b>DETAILS</b>				



## TEMPLE AVENUE PARALLEL PARKING

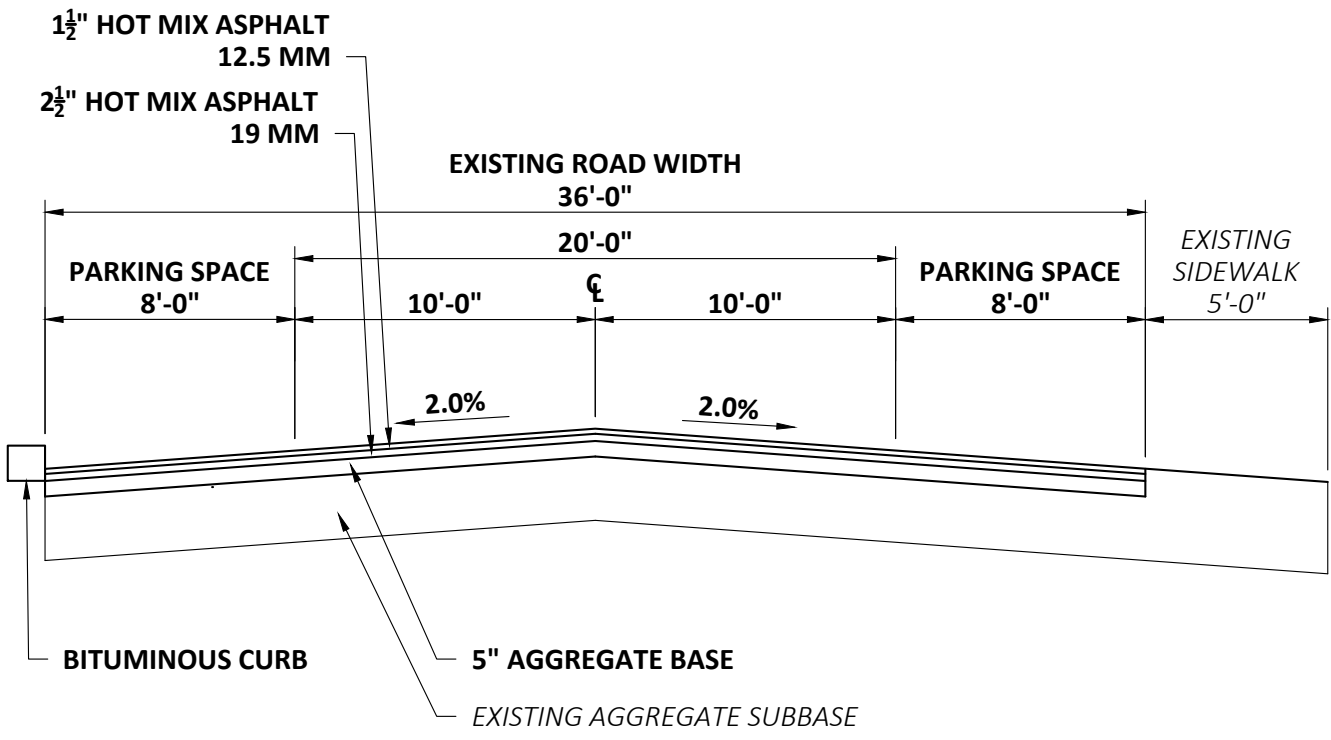
SCALE: NTS



## TYPICAL DRIVEWAY SECTION

SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH</b> <b>2024 CIP PAVING PROJECTS</b> <b>OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS	
	1		
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: 4
<b>DETAILS</b>			

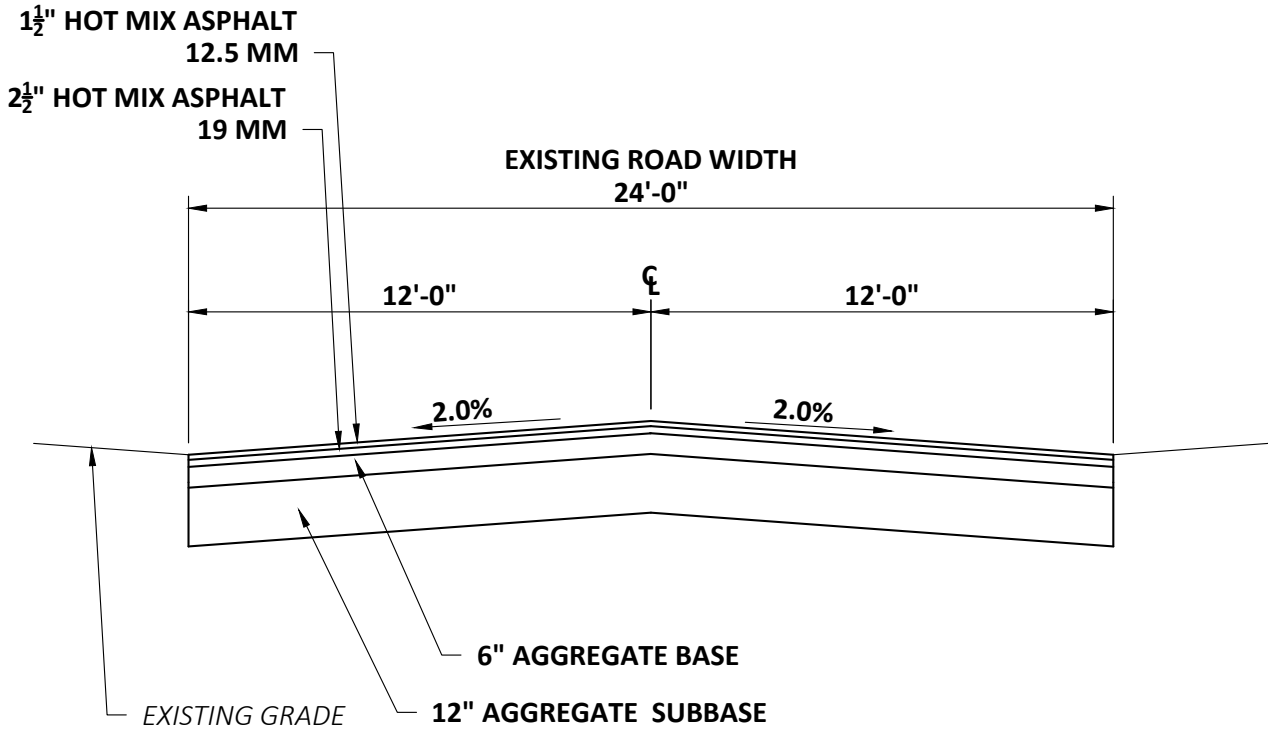


# TEMPLE AVENUE TYPICAL SECTION

SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH</b> <b>2024 CIP PAVING PROJECTS</b> <b>OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: 5	
<b>DETAILS</b>				





## REGGIO AVENUE TYPICAL SECTION

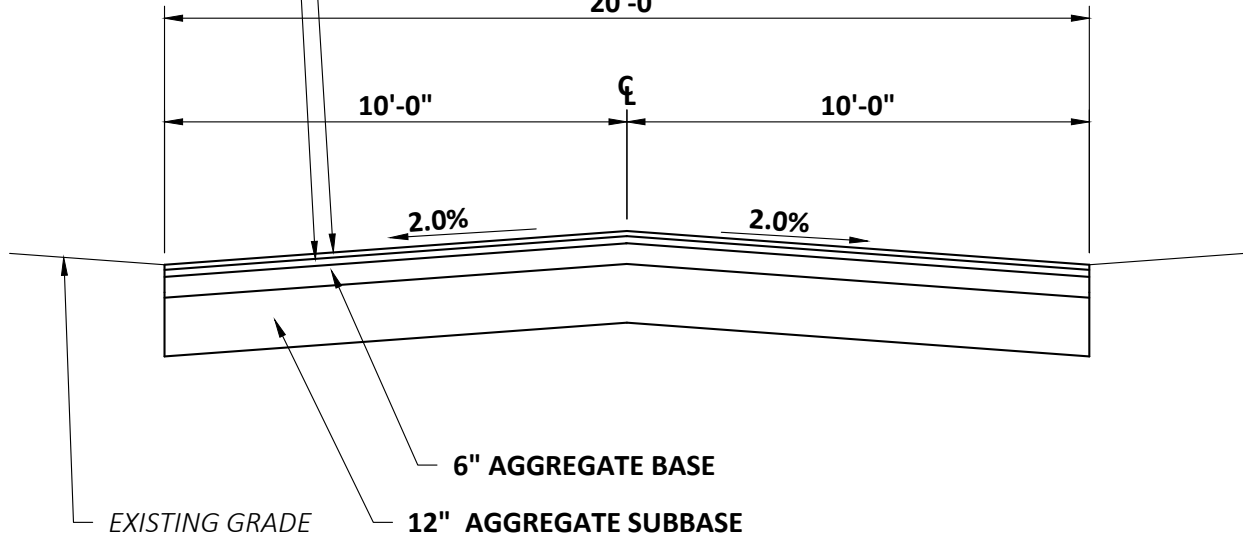
SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH</b> <b>2024 CIP PAVING PROJECTS</b> <b>OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE:	
	<b>DETAILS</b>			<b>6</b>

1½" HOT MIX ASPHALT  
12.5 MM


2½" HOT MIX ASPHALT  
19 MM

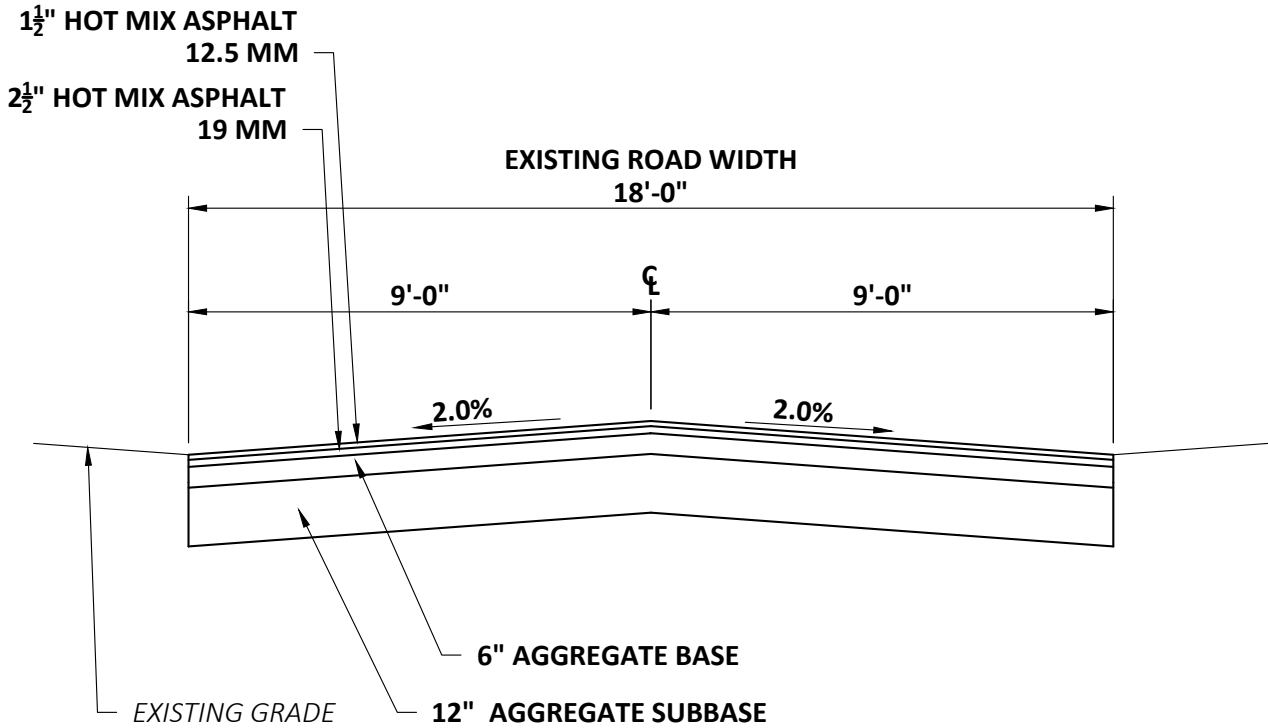
EXISTING ROAD WIDTH  
20'-0"



## WILLIAMS STREET TYPICAL SECTION

SCALE: NTS

TOWN OF OLD ORCHARD BEACH 2024 CIP PAVING PROJECTS OLD ORCHARD BEACH, MAINE	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: 7	
<b>DETAILS</b>				



## WILBUR AVENUE TYPICAL SECTION

SCALE: NTS

<b>TOWN OF OLD ORCHARD BEACH          2024 CIP PAVING PROJECTS          OLD ORCHARD BEACH, MAINE</b>	NO.	REVISIONS		
	1			
	DRAWN BY: M.LAPIERRE	DATE: APRIL 2024	PROJ NO: 21758	
	APPROVED BY: J.WALLACE	REFERENCE DWG:	FIGURE: <b>8</b>	
<b>DETAILS</b>				

**WRIGHT-PIERCE** <sup>TM</sup>  
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