



CITY OF ST. CHARLES

BIDDING REQUIREMENTS, CONTRACT FORMS, CONTRACT CONDITIONS AND SPECIFICATIONS

for

Woods of Fox Glen Creek Stabilization

PREPARED BY:

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August 14, 2015

I hereby certify that these documents were prepared under my direct supervision.

Greg Chismark, P.E.
Illinois Licensed Professional Engineer No. 062-044133
Expires November 30, 2015

**Woods of Fox Glen
Creek Stabilization**

TABLE OF CONTENTS

DIVISION 00 – DOCUMENTS

<u>SECTION</u>	<u>TITLE</u>
00030	Advertisement for Bids
00100	Instructions to Bidders
00300	Proposal, Supplemental Bid Forms & Summary of Quantities
00500	Contract Agreement
00600	Performance Bond and Payment Bond
00650	Certificate of Insurance Requirements
00700	General Conditions
00750	Prevailing Wage Rates
00800	Supplementary Conditions

DIVISION 01 – GENERAL REQUIREMENTS

<u>SECTION</u>	<u>TITLE</u>
01100	Contract Considerations
01200	Reference Standards
01300	Submittals
01400	Quality Control
01700	Contract Close-out

SPECIAL PROVISIONS

SOIL BORING DATA

IEPA FORM LPC-662 (CCDD)

PERMITS

END OF TABLE OF CONTENTS

SECTION 00030

City of St. Charles

Legal Notice

Invitation for Bid

Sealed bids will be received by the City of St. Charles at the Office of the Purchasing Manager, Two East Main Street, St. Charles, Illinois 60174 no later than 10:00 a.m., Friday, August 28, 2015 for the **Woods of Fox Glen Creek Stabilization**. All bids will be opened publicly and read aloud in the Council Chambers located at, Two East Main Street, St. Charles, IL 60174, at 10:00 a.m. on Friday, August 28, 2015.

The proposed improvements include; stabilizing approximately 600 feet of Fox Glen Creek extending from Fox Glen Drive south to a pond at the St. Charles Country Club property. Fox Glen Creek exhibits heavily eroded stream banks within the project limits.

The project will include widening and filling the channel to handle proposed stormwater runoff, installing stabilization measures along the bottom and banks of the stream with stone riprap, installing a concrete weir with stepped grade control, installing an area of Gabion Baskets to protect residences in a small and heavily eroded portion of the stream, landscape plantings, site restoration and other appurtenant work for a complete improvement.

Any person, firm or corporation submitting a proposal shall have been in business a minimum of five years, and shall be fully experienced in all aspects of the project described above. The successful bidder must provide proof of this past experience to the City of St. Charles as part of their bid submittal. Bidders are advised of the following requirements of this contract: 1) Illinois Prevailing Wage of the State of Illinois, Kane County; 2) 10% Bid Security with the bid submittal in accordance with the Instructions to Bidders; 3) 115% Performance and Payment Bond and; 4) Certificate of Insurance meeting the City's requirements;

Bid Documents and Proposal forms may be obtained at no charge at the City of St. Charles website at, <http://www.stcharlesil.gov/bids-proposals> after Monday, August 17th.

Addenda will be available to document holders via the website. It is the responsibility of the contractor to frequently check the City's website for any future addendums. Contractors will be required to submit all addendum acknowledgement forms with their bid submittal. All questions shall be directed to Mrs. Karen Young, Assistant Director of Public Works - Engineering, at 630-377-4486 or at kryoung@stcharlesil.gov.

Pre-bid meeting:

Bidders are invited to attend a non-mandatory pre-bid meeting on August 21, 2015 at 11:00 a.m. The pre-bid meeting will occur at the project site visit and include a review the scope of the project and to offer bidders an opportunity to present questions regarding the project.

The City expressly reserves the right to reject any or all bids or to accept the one that appears to be in the best interest of the City. The City expressly reserves the right to waive any informalities, discrepancies or technical irregularities in a bid if to do so is in the best interest of the City. The City reserves the right to defer the acceptance of any bid and the award of a Contract for a period not exceeding forty-five (45) days after the date of opening the bids. Prices quoted must be valid for a minimum of 75 days from the date of the bid opening.

The City reserves the right to require the low bidder to file proof of his ability to finance and execute the project. This proof shall include, but not be limited to, a financial statement, list of equipment owned by bidder, backlog of jobs under a Contract only to a Bidder who furnishes satisfactory evidence that he has the ability, sufficient capital, facilities, and plant to enable him to prosecute the work successfully and promptly, and to complete the work within the time specified in the Contract Documents.

The City of St. Charles does not discriminate in admission, access to, treatment, or employment in its programs and activities.

END OF SECTION

SECTION 00100

INSTRUCTIONS TO BIDDERS

1. Defined Term.

Terms used in these Instructions to Bidders, which are defined in Section 00700 have the meanings assigned to them in the General Conditions. The term "Successful Bidder" means the lowest, qualified, responsible Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

2. Copies of Bidding Documents.

2.1 Bid Documents and Proposal forms may be obtained from the City of St Charles Website (www.stcharlesil.gov/bids-proposals).

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

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

3. Bidder Qualifications.

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit written evidence of the types set forth in the Special Provisions, such as financial data, previous experience and evidence of authority to conduct business in the jurisdiction where the Project is located.

Each bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.

4. Examination of Contract Documents and Site

4.1 Before submitting a Bid, each Bidder must (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may in any manner affect cost, progress or performance of the Work, (c) become familiar with federal, state and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the Work; and (d) study and carefully correlate Bidder's observations with the Contract Documents.

- 4.2 Reference is made to the Supplementary Conditions for the identification of those reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress, or performance of the Work, which have been relied upon by Engineer in preparing the Drawings and Specifications. Owner will make copies of such reports available to any Bidder requesting them. These reports are not guaranteed as to accuracy or completeness, nor are they part of the Contract Documents. Before submitting his Bid each Bidder will, at his own expense, make such additional investigations and tests as the Bidder may deem necessary to determine his/her bid for performance of the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.
- 4.3 On request Owner will provide each Bidder access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of his/her Bid.
- 4.4 The lands, upon which the Work is to be performed, rights of way for access thereto and other lands designated for use by contractor in performing the Work are identified in the Drawings.
- 4.5 The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this Article 4 and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

5. Interpretations

All questions about the meaning or intent of the Contract Documents shall be submitted to Mrs. Karen Young, Assistant Director of Public Works - Engineering, at 630-377-4486 or at kryoung@stcharlesil.gov. Replies will be issued by Addenda. Addenda will be available to document holders via the website. It is the responsibility of the Bidder to frequently check the City's website for any addendums. Bidders will be required to submit all addendum acknowledgement forms with their bid submittal. Questions received less than seventy two (72) hours prior to the date for opening of Bids will not be answered. Only questions answered by a formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6. Bid Security

- 6.1 Bid Security shall be made payable to Owner, in an amount of TEN (10%) percent of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond.
- 6.2 The Bid Security of the Successful Bidder will be retained until such bidder has executed the Agreement and furnished the required Contract Security, whereupon it will be returned; if the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract Security within 15 days of the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of any Bidder whom Owner believes to have a reasonable chance of receiving the award may be retained by

Owner until the earlier of the seventh day after the "effective date of the Agreement" (which term is defined in the General Conditions) by Owner to Contractor and the required Contract Security is furnished or the ninety-fifth day after the Bid opening. Bid Security of other Bidders will be returned within 60 days of the bid opening.

7. Contract Time

The number of days within which, or the date by which, the Work is to be completed (the Contract Time) is set forth in the Bid Form and will be included in the Agreement.

8. Prevailing Wage Rate

All work under this contract shall comply with the Prevailing Wage Rate Act of the State of Illinois, Illinois Compiled Statutes Ch. 820, par. 130/31, et seq. and as amended by Public Acts 86-799 and 86-693 and our City of St. Charles Ordinance No. 2003-M-59, in effect at the time work is performed.

The successful bidder and each subcontractor shall submit monthly, in person, by mail, or electronically, a certified payroll to the City of St. Charles. The certified payroll shall consist of records of all laborers, mechanics, and other workers employed by them on the project. The records shall include each worker's name, address, telephone number (when available), social security number, classification or classifications, the hourly wages paid in each period, the number of hours worked each day, and the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the bidder or subcontractor which avers that:

- A. Such records are true and accurate;
- B. The hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required; and
- C. The bidder or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class B misdemeanor.

The City of St. Charles is required to keep the certification records submitted for a period of not less than three years. Furthermore, these records, except an employee's address, telephone number, and social security number, shall be made available in accordance with the Freedom of Information Act.

9. Liquidated Damages

Should the Contractor fail to complete the work, including cleaning up, to the point of substantial completion and acceptance or final completion and acceptance of the work by the Assistant Director of Public Works - Engineering within the time specified in the Contract Documents for the Date of Substantial or Final Completion and agreed upon by the Contractors by accepting the Contract, or within such extra time as may be allowed in accordance with the Contract Documents, there shall be deducted from any monies due the contractor, or that may become due the Contractor, the sum of one thousand dollars (\$1,000) per calendar day for each and every calendar day, including Sundays

and Holidays that the work remains incomplete. (Liquidated Damages in Accordance with Section 108.09 of the Standard Specifications).

This sum shall be considered and treated not as a penalty but as fixed, agreed, and liquidated damages due the City of St Charles from the Contractor by reason of inconvenience to the public, added costs of supervision, and other items which may have caused an expenditure of funds resulting from his failure to complete the work within the time specified.

Permitting the Contractor to continue and finish the work, or any part of it after the time fixed for its completion, or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the City of St Charles of any of its rights under the Contract.

10. Substitute Material and Equipment

The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the "effective date of the Agreement." The procedure for submittal of any such application by contractor and consideration by Engineer is set forth in paragraphs 6.05 of the General Conditions which may be supplemented in the General Requirements.

11. Subcontractors, etc.

11.1 All Bidders' shall submit to Owner a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person, and organization if requested by Owner. If Owner or Engineer after due investigation has reasonable objections to any proposed Subcontractor, other person, or organization, either may before giving the Notice of Award request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Any Subcontractor, other person, or organization so listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer.

11.2 In contracts where the Contract Price is on the basis of Cost-of-the-Work plus a fee, the apparent Successful Bidder, prior to the Notice of Award, shall identify in writing to Owner those portions of the Work that such Bidder proposes to subcontract and after the Notice of award may only subcontract other portions of the Work with Owner's written consent.

11.3 No Contractor shall be required to employ any subcontractor, other person, or organization against whom he has reasonable objection.

12. Bid Form

12.1 The Bid form, consisting of the Schedule of Prices, is attached hereto; additional copies may be obtained from Engineer.

12.2 Bid Forms must be completed in ink or by typewriter. The Bid price of each item on the form must be stated in words and numerals; in case of a conflict, words will take precedence.

12.3 Bids by corporations must be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

12.5 All names must be typed or printed below the signature.

12.6 The Bid shall contain an acknowledgment of receipt of all addenda (the numbers of which shall be filled in on the Bid Form).

12.7 The address to which communications regarding the Bid are to be directed must be shown.

13. Submission of Bids

Bids shall be submitted at the time and place indicated in the "Notice To Bidders" and shall be included in an opaque sealed envelope, marked with the Project title, name and address of the Bidder and accompanied by the Bid Security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof. Bids received after the time specified in Section 00030 will be returned unopened. All bids submitted are binding for ninety (90) calendar days following the bid opening.

14. Modification and Withdrawal of Bids.

14.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

14.2 If, within twenty-four 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 his Bid, that Bidder may withdraw his Bid and the Bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work.

15. Opening of Bids

Bids will be opened and read aloud publicly. An abstract of the amounts of the Base Bids and major alternates (if any) will be made available after the opening of Bids.

16. Bids to Remain Open

All Bids shall remain open for Seventy Five (75) days after the day of the bid opening. However, the Owner may, in his sole discretion, release any bid and return the Bid Security prior to that date.

17. Award of Contract

17.1 Owner reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive, or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between the indicated product of a unit price times a quantity and the correct product will be resolved in favor of the correct product.

17.2 In evaluating Bids, Owner shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and alternates and unit prices if requested in the Bid forms. It is Owner's intent to accept alternates (if any are accepted) in the order in which they are listed in the Bid form but Owner may accept them in any order or combination.

17.3 Owner may consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the Work as to which the identify of Subcontractors and other persons and organizations must be submitted as provided in the Supplementary Conditions. Operating Costs, maintenance considerations, performance data, and guarantee of materials and equipment may also be considered by Owner.

17.4 Owner may conduct such investigations as he deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors, and other persons and organizations to do the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

17.5 Owner reserves the right to reject the bid of any Bidder who does not pass any such evaluation to owner's satisfaction.

17.6 If the contract is to be awarded it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.

17.7 Owner reserves the right to award all, part or none of the project based on bid results and budget considerations.

18. Performance and Other Bonds.

A performance bond and payment bond in the amount of 115% of the bid submitted is required within seven (7) calendar days of acceptance of the bidder's proposal by the City.

The performance bond and payment bond of the successful bidder shall have a minimum "A" rating as defined in Best's Key Rating Guide, be conditioned on the faithful performance of the requirements of the contract, and shall have as surety a corporate surety authorized to act as such in Illinois. The performance bond and payment bond shall cover payment for all labor and material, and insure completion of the project. The bidder will be responsible for all claims for injuries to persons or damages to property or premises arising out of or in connection with his or her operations prior to the acceptance of the finished work or supplies, and that he or she will promptly make payments to all persons supplying him or her or them with labor or materials in the prosecution of the work provided for in the contract; and shall guarantee to indemnify and save the City and its officers and employees harmless from all costs, damages, and expenses arising out of or by reason of the bidder's failure to comply and perform the work and complete the contract in accordance with the specifications.

The performance bond and payment bond shall be in conformance with the requirements of the Illinois Act in relation to bonds of bidders entering into contracts for public construction. (Illinois Compiled Statutes Ch. 30, Sec. 550/1, et seq.)

19. Signing of Agreement.

When Owner gives a Notice of Award to the Successful Bidder, at least three unsigned counterparts of the Agreement and all other Contract Documents will accompany it. Within seven (7) days thereafter Contractor shall sign and deliver at least three counterparts of the Agreement to Owner with all other Contract Documents attached. Within seven (7) days thereafter Owner will deliver all fully signed counterparts to Contractor. Engineer will identify those portions of the Contract Documents not fully signed by Owner and Contractor and such identification shall be binding on all parties.

20. General Guaranty

Contractor agrees to save the City, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented, invention, article, or appliance furnished or used in the performance of the contract which the contractor is not the patentee, assignee, licensee, or owner. Protect the City against latent defective material or workmanship and to repair or replace any damages or marring occurring in transit or delivery. Pay for all

permits, licenses, and fees and give all notices and comply with all laws, ordinances, and rules of the City and State of Illinois.

21. Assignment

Assignment of this contract or any part thereof, or any funds to be received thereunder by the contractor shall be subject to the approval of the City of St. Charles.

22. Equal Opportunity Employer

The City of St. Charles is an equal opportunity employer, and all bidders are required to be equal opportunity contractors as defined by all applicable State and Federal laws and regulations, including Public Act 87-1257 of the Illinois Human Rights Act.

23. Default

The contract may be canceled or annulled by the Purchasing Manager in whole or in part by written notice of default to the contractor upon nonperformance or violation of contract terms. The City may make an award to the next low Bidder or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices provided. The contractor shall continue the performance of this contract to the extent not terminated under the provision of this clause. Failure of the contractor to deliver materials or services within the times stipulated on this bid, unless extended in writing by the City Engineer or his representative, or any other material breach shall constitute contract default.

24. Survival

The provisions hereof shall survive and shall not merge with the resulting purchase order or contract awarded to the successful bidder, but shall be additional terms thereof; and the submission of a bid shall be deemed as acceptance of these terms.

25. Insurance

Detailed insurance requirements are included under Section 00650.

The bidder shall secure and maintain in effect at all times, at his or her expense, insurance of the following kinds and limits to cover all locations of the bidder's operations in connection with work on his or her company's projects, naming the City of St. Charles as an additional insured. The bidder shall furnish Certificates of Insurance to the City before starting construction or within 10 days after the execution of the contract, whichever date is reached first. All insurance policies shall include a non-cancellation clause provision preventing cancellation without 30 days written prior notice to the City. In case of insurance cancellation, bidder shall obtain a new insurance policy in compliance with this paragraph prior to the effective date of cancellation.

Certificates of insurance must be completed on the ACCORD 25-S form, with the cancellation clause revised and revisions initialed.

26. Completion Date of Project

The City requires the CONTRACTOR to complete all contract work to Substantial Completion on or before December 1, 2015 and Final Completion on or before May 15, 2016. Failure to comply with the deadline for the completion of the project within the specified dates shall result in the enforcement of liquidated damages in the amount of \$1,000.00 per day for each and every calendar day that these improvements remain incomplete for either Substantial or Final completion, in accordance with the Contract Documents and Section 108.05 and 108.09 of the Standard Specifications, along with all fees acquired for extended need for resident engineering services.

27. Maintenance Bond

The lowest responsible bidder is required to furnish a maintenance bond approved by the City in the amount equal to ten percent (10%) of the Contract Amount. This bond shall provide a guarantee against defective materials and workmanship in connection with said maintenance. The Principal agrees to make any and all repairs or replacements, which become necessary during the specified period of 12 months and commencing on the date of inspection and final approval of the work by the City of St Charles.

28. Working Hours

Normal working hours are from Monday thru Friday 7am- 7pm, Saturday 9am-5 pm, and no work on Sundays.

29. Pre-bid meeting

Bidders are invited to attend a non-mandatory pre-bid meeting on August 21, 2015 at 11:00 a.m. The pre-bid meeting will occur at the project site visit and include a review the scope of the project and to offer bidders an opportunity to present questions regarding the project.

END OF SECTION

SECTION 00300

PROPOSAL

TO THE CITY OF ST. CHARLES, ILLINOIS (hereinafter called OWNER):

Proposal of _____
Name and Address of Bidder

_____ **(Hereinafter called BIDDER)** for the improvement, designated in Paragraphs 1-3 below, for:

The project consists of stabilizing approximately 600 feet of Fox Glen Creek extending from Fox Glen Drive south to a pond at the St. Charles Country Club property. The project will include widening and filling the channel to handle proposed stormwater runoff, installing stabilization measures along the bottom and banks of the stream with stone riprap, installing a concrete weir with stepped grade control, installing an area of Gabion Baskets to protect residences in a small and heavily eroded portion of the stream, landscape plantings, site restoration and other appurtenant work for a complete improvement.

1. The plans for the proposed improvement are those prepared by Wills Burke Kelsey Associates, Consulting Engineers and are being administered by THE CITY OF ST. CHARLES ENGINEERING OFFICE, Two East Main Street, St. Charles, Illinois 60174, which plans are designated as "**Woods of Fox Glen Creek Stabilization**" and which cover the work described in the preceding paragraph above.
2. In submitting this Proposal, the BIDDER declares that the only persons or parties interested in the Proposal as principals are those named herein and that the Proposal is made without collusion with any person, firm, or corporation.
3. The BIDDER further declares that he has carefully examined the Proposal, Plans, Specifications, Agreement, and Contract Bond, and that he has inspected in detail the site of the proposed work, and that he has familiarized himself with all of the local conditions affecting the Contract and the detailed requirements of construction, and understands that in making this proposal he waives all right to plead any misunderstanding regarding the same.
4. The BIDDER further understands and agrees that, if this proposal is accepted, he is to furnish and provide all necessary machinery, tools, apparatus and other means of construction, and to do all of the work, and to furnish all of the materials specified in the contract, except such materials as are to be furnished by the OWNER in the manner and at the time therein prescribed, and in accordance with the requirements therein set forth.
5. The BIDDER agrees that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their respective unit prices, the latter shall apply.

6. The BIDDER further agrees that, if the OWNER decides to extend or decrease the improvement, or otherwise alter it by extras or deductions, including the elimination of any one or more items, as provided in the specifications, he will perform the work as altered, increased, or decreased at the contract unit prices bid.
7. The BIDDER further agrees that the OWNER may at any time during the progress of the work covered by this contract order other work or materials incidental thereto and that all such work and materials as do not appear in the proposal or contract as a specific item accompanied by a unit price, and which are not included under the bid price for other items in this CONTRACT, shall be performed in accordance with Article 10 of the General Conditions.
8. The BIDDER further agrees to execute a contract for this work and present the same to the OWNER within seven (7) days after the date of Notice of the Award of the CONTRACT to him.
9. The BIDDER further agrees that he and his surety will execute and present within seven (7) days after the date of Notice of the Award, Contract Performance and Payment Bonds satisfactory to and in the form prescribed by the OWNER, in the amount of 115% of the contract amount, guaranteeing the faithful performance and payment of the work in accordance with the terms of the contract.
10. The BIDDER further agrees to begin work not later than fourteen (14) days after receipt of the NOTICE TO PROCEED and after the execution and approval of the Contract and Contract Bond, unless otherwise authorized or directed by the OWNER and to prosecute the work in such manner and with sufficient materials, equipment, and labor as will insure its completion within the time limit specified herein, it being understood and agreed that the completion within the time limit is an essential part of the contract. **BIDDER further agrees to complete all contract work to Substantial Completion by December 1, 2015. Substantial Completion shall be defined as the construction / installation of all streambank and earth stabilization measures along and adjacent to the creek including all rip-rap, gabion baskets, concrete control weir and all restoration items and trees. BIDDER further agrees to complete all contract work to Final Completion by May 15, 2016. Final Completion shall be defined as the completion of all pay items except landscape maintenance tasks and the acceptance of all pay items by the City.** Additional time may be granted by OWNER in accordance with Article 12 of the General Conditions. In case of failure to complete the Work within the time named herein or within such extra time as may have been allowed by extensions, **the BIDDER agrees to pay OWNER ONE THOUSAND DOLLARS (\$1,000.00) as liquidated damages** for delay for each calendar day that expires after the date specified for each phase, which shall be considered and treated not as a penalty, but as damages due the OWNER resulting from the failure of the BIDDER to complete the work within the CONTRACT TIME.
11. Accompanying this Proposal is a bid bond, bank draft, cashier's check, or certified check, complying with the requirements of the Specifications, made payable to the City of St. Charles.

The amount of the check or draft is \$_____.

12. If this proposal is accepted and the BIDDER shall fail to execute a Contract and Contract Bond as required herein, it is hereby agreed that the amount of the bond, check, or draft shall become the property of the OWNER and shall be considered as payment of damages due to delay and other causes suffered by the OWNER because of the failure to execute said Contract and Contract Bond; otherwise said bond, check, or draft shall be returned to the BIDDER.

**ATTACH BID BOND, BANK DRAFT, BANK CASHIER'S CHECK
OR CERTIFIED CHECK HERE**

13. The BIDDER submits herewith his schedule of prices covering the WORK to be performed under this CONTRACT; he understands that he must show in the schedule the unit prices for which he proposes to perform each item of work, and that the extensions must be made by him, and that if not so done, his proposal may be rejected as irregular.
14. The undersigned firm in signing this Proposal certifies that it is not barred from bidding on this Contract as a result of a conviction for the violation of State Laws prohibiting bid-rigging or bid-rotating.

SEAL

If an Individual

Signature of Bidder _____

Business Address _____

SEAL

If a Co-Partnership

Signature of Bidder _____

Business Address _____

Insert names and addresses

of all members of the Firm

SEAL

If a Corporation

Corporate Name _____

Signed By _____, President

Attested _____, Secretary

Business Address _____

WOODS OF FOX GLEN – CREEK STABILIZATION

No	Description	Quantity	Unit of Measure	Unit Price	Amount
1	CONSTRUCTION LAYOUT AND AS-BUILT SURVEY	1.0	LSUM		
2	MOBILIZATION	1.0	LSUM		
3	SITE DEWATERING	1.0	L SUM		
4	TEMPORARY CONSTRUCTION FENCE	1,469.0	FOOT		
5	TREE REMOVAL (6-15 UNITS DIA)	1,029.0	UNITS		
6	TREE REMOVAL (OVER 15 UNITS DIA)	363.0	UNITS		
7	CLEARING	1.2	ACRE		
8	TREE TRUNK PROTECTION	9.0	EACH		
9	EARTH EXCAVATION, SPECIAL	2,249.9	CU YD		
10	EARTH EXCAVATION & HAUL OFF	688.2	CU YD		
11	INSTALLATION, MAINT. & REMOVAL OF STABILIZED CONSTRUCTION ENTRANCE	1.0	L SUM		
12	TOPSOIL FURNISH AND PLACE, 6", SPECIAL	2,747.0	SQYD		
13	STONE RIP RAP, CLASS A5, SPECIAL	2,630.0	SQYD		
14	STONE RIP RAP, CLASS A7, SPECIAL	542.0	SQYD		
15	FILTER FABRIC	3,172.0	SQYD		
16	GABION WALL, 9' HIGH	115.0	LIN FT		
17	STRUCTURE EXCAVATION	157.0	CUYD		
18	REINFORCEMENT BARS	3,060.0	POUND		
19	CONCRETE STRUCTURES	43.9	CUYD		

No	Description	Quantity	Unit of Measure	Unit Price	Amount
20	INSTALLATION, MAINT. & REMOVAL OF HAUL ROAD	1.0	L SUM		
21	REMOVE EXISTING CHAIN LINK FENCE	30.0	FOOT		
22	SEDIMENT CONTROL, COIR LOG	180.0	FOOT		
23	EROSION CONTROL BLANKET	2,362.0	SQYD		
24	HEAVY DUYTY EROSION CONTROL BLANKET	428.0	SQYD		
25	PERIMETER EROSION BARRIER, SILT FENCE	1,110.0	FOOT		
26	TEMPORARY ROCK CHECK DAM (CLASS A5)	2.0	EACH		
27	CHAIN LINK FENCE WITH GATE, 6'	55.0	FOOT		
28	AGGREGATE SOIL MIXTURE & FABRIC IN RIP RAP	312.0	SQYD		
29	GABION BASKET (3' X 4.5')	6.0	EACH		
30	AGGREGATE SOIL MIXTURE IN GABION BASKETS	57.5	SQYD		
31	CART PATH REMOVAL AND REPLACEMENT	57.0	SQYD		
32	REMOVE CHAIN LINK FENCE WITH GATE, 6'	55.0	FOOT		
33	REPLACE CHAIN LINK FENCE, 4', SPECIAL	30.0	FOOT		
34	CURB AND GUTTER REMOVAL AND REPLACEMENT	30.0	FOOT		
35	SIDEWALK REMOVAL AND REPLACEMENT, 5"	640.0	SQFT		
36	TEMPORARY CONCRETE WASHOUT FACILITY	1.0	EACH		
37	SEEDING, SHADED DRY SLOPE	0.6	ACRE		
38	SEEDING, SHADED STREAMBANK	0.1	ACRE		
39	SEEDING, CLASS 1A WITH FERTILIZER	0.01	ACRE		

No	Description	Quantity	Unit of Measure	Unit Price	Amount
40	PERENNIAL PLANTS, PRAIRIE TYPE (SHADED STREAMBANK)	10.0	UNITS		
41	PERENNIAL PLANTS, PRAIRIE TYPE (GABION WALL)	4.5	UNITS		
42	TREE, CELTIS OCCIDENTALIS (COMMON HACKBERRY)	2.0	EACH		
43	TREE, CERCIS CANADENSIS (EASTERN REDBUD)	2.0	EACH		
44	TREE, CRATAEGUS MOLLIS (DOWNY HAWTHORN)	1.0	EACH		
45	TREE, JUGLANS NIGRA (BLACK WALNUT)	3.0	EACH		
46	TREE, QUERCUS ALBA (WHITE OAK)	4.0	EACH		
47	TREE, QUERCUS MACROCARPA (BUR OAK)	1.0	EACH		
48	TREE, QUERCUS RUBRA (RED OAK)	3.0	EACH		
49	TREE, OSTRYA VIRGINIANA (AMERICAN HOPHORNBEAM)	5.0	EACH		
50	LANDSCAPE MAINTENANCE, YEAR 1	1.0	L SUM		
51	LANDSCAPE MAINTENANCE, YEAR 2	1.0	L SUM		
52	LANDSCAPE MAINTENANCE, YEAR 3	1.0	L SUM		
BID TOTAL					

SUPPLEMENTAL BID FORMS

**CERTIFICATE OF COMPLIANCE OF THE
ILLINOIS COMPILED STATUTES, CHAPTER 65, SECTION 11-42-1**

The undersigned, upon being first duly sworn, hereby certifies to the City of St. Charles, Kane and DuPage Counties, Illinois, that

_____ (Contractor) is not currently delinquent in the payment of any tax administered by or owed to the Illinois Department of Revenue, or otherwise in default upon any such tax as defined under Chapter 65, Section 11-42-1, **Illinois Compiled Statutes**.

Name of Contractor

By: _____

Subscribed and sworn to

before me this _____ day

of _____, 2015.

Notary Public

**CERTIFICATE OF NON-DISQUALIFICATION
UNDER IL. COMPILED STAT., CH. 720, SEC. 33E-11**

The undersigned, upon being first duly sworn, hereby certifies to the City of St. Charles, Kane and DuPage Counties, Illinois, that

_____ (Contractor) is not barred from contracting with any unit of State or local government, as a result of a violation of Ch. 720, Sec. 33E-11 of the **Illinois Compiled Statutes**.

Name of Contractor

By:

(print/type name)

Title

Subscribed and sworn to

before me this _____ day

of _____, 2015.

Notary Public

NOTE TO BIDDER: Anyone who makes a false statement, material to this Certification, commits a Class 3 Felony under Il. Compiled Stat., Ch. 720, Sec. 33E-11 (b).

CERTIFICATION OF COMPLIANCE WITH SAFETY STANDARDS

The undersigned, upon being first duly sworn, hereby certifies to the City of St. Charles, Kane and DuPage Counties, Illinois, that _____
(Contractor) shall comply with all local, State, and Federal safety standards.

Name of Contractor

By:

(print/type name)

Title

Subscribed and sworn

to before me this _____

day of _____, 2015.

Notary Public

**CERTIFICATION OF COMPLIANCE WITH PUBLIC ACT 87-1257
OF THE ILLINOIS HUMAN RIGHTS ACT**

The undersigned, upon being first duly sworn, hereby certifies to the City of St. Charles, Kane and DuPage Counties, Illinois, that _____
(Contractor) complies with the Illinois Human Rights Act as amended by Section 2-105, Public Act 87-1257 in relation to employment and human rights.

Name of Contractor

By:

(print/type name)

Title

Subscribed and sworn

to before me this _____

day of _____, 2015.

Notary Public

CERTIFICATE OF NONDISCRIMINATION

This is to certify that this firm does not and will not discriminate in any of its employment practices against persons because of their race, color, religion, sex or place of national origin, or ancestry.

The undersigned will take all necessary affirmative action as may be required by all applicable Federal, State and Local laws, ordinances, rules, regulations and orders to ensure that applicants are employed and that employees are treated, during employment, without regard to their race, color, religion, sex or national origin or ancestry.

Firm: _____

By: _____

Title: _____

Date: _____

STATE OF ILLINOIS)
)
COUNTY OF KANE & DUPAGE)

AFFIDAVIT OF NONCOLLUSION

The undersigned, who has herewith submitted a bid to provide,

(describe nature of service or product)

in accordance with plans and specifications furnished by the City of St. Charles for

(describe project)

does hereby affirm that said undersigned person and/or firm into any agreement, understanding, or arrangement with any other bidder or prospective bidder or with any other person, firm, or corporation relating to the price named in said proposal, nor has said undersigned person and/or firm entered into any agreement, understanding, or arrangement under which any person, firm, or corporation is to refrain from bidding, nor any agreement, understanding, or arrangement for any act or omission in restraint of free competition among bidders.

The undersigned further affirms that said undersigned person and/or firm is not disqualified by law from contracting with the City of St. Charles; and that said undersigned person and/or firm has not disclosed to any person, firm, or corporation the terms of this proposal or the price named herein.

Company

Bid for

Address

Date

Duly authorized agent or officer

Subscribed and sworn to me

this _____ day of _____, A.D. 20_____

Notary Public

END OF SECTION

AFFIDAVIT OF EXPERIENCE

STATE OF _____)

COUNTY OF _____)SS

_____ being duly sworn, that he is

_____, of _____
(Sole owner, member of firm, corporate official) (Individual, firm, or corporate name)

Which has performed work of the general description and type identified in this contract for

_____ years and _____ months beginning in (year) _____

Has successfully completed work for the following entities of the general description and type identified in this contract:

<u>Name of Owner</u>	<u>Job Description/Location</u>	<u>\$ Amount</u>	<u>Completion Year</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

and that the contact information for each referenced project is as follows:

<u>Contact Person</u>	<u>Phone Number</u>	<u>FAX Number</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Signature: _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary Public

AFFIDAVIT OF CCDD LICENSED FILL SITE

STATE OF _____)

COUNTY OF _____)SS

_____ being duly sworn, that he is

_____, of _____
(Sole owner, member of firm, corporate official) (Individual, firm, or corporate name)

Certify that the Illinois Environmental Protection Agency Licensed Fill Site for CCDD material disposal for this project shall be:

<u>Name of Fill Site</u>	<u>Address</u>	<u>Phone Number</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Signature: _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary Public

SECTION 00500
CONTRACT AGREEMENT

THIS AGREEMENT is dated as of the ____ day of ____ in the year 2015 by and between The City of St. Charles, Illinois

(hereinafter called OWNER) and _____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The project consists of stabilizing approximately 600 feet of Fox Glen Creek extending from Fox Glen Drive south to a pond at the St. Charles Country Club property. The project will include widening and filling the channel to handle proposed stormwater runoff, installing stabilization measures along the bottom and banks of the stream with stone riprap, installing a concrete weir with stepped grade control, installing an area of Gabion Baskets to protect residences in a small and heavily eroded portion of the stream, landscape plantings, site restoration and other appurtenant work for a complete improvement.

Article 2. ENGINEER

The project was designed by Wills Burke Kelsey Associates, as an agent for the City of St. Charles Engineering Office. The City of St. Charles Engineering Office, 2 East Main Street, St. Charles, Illinois, who is hereinafter called ENGINEER, will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME

- 3.1 The work of the project will be Substantially Complete by December 1, 2015 and Final Complete and ready for final payment in accordance with paragraph 14.07 of the General Conditions by May 15, 2016.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that the OWNER may suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1

above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They 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 substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER ONE THOUSAND DOLLARS (\$1,000.00) for each calendar day that expires after the date specified in paragraph 3.1 for either SUBSTANTIAL or FINAL completion of all work.

- 3.3 Substantial Completion shall be defined as the construction / installation of all streambank and earth stabilization measures along and adjacent to the creek including all rip-rap, gabion baskets, concrete control weir and all restoration items and trees. Final Completion shall be defined as the completion of all pay items except landscape maintenance tasks and the acceptance of all pay items by the City
- 3.4 Working hours for the job will be Monday – Friday, 7:00AM-7:00PM, Saturday 9:00 AM- 5:00PM. No work shall be permitted on Sunday.

Article 4. CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds as follows:
- 4.2 Payment shall be made on the basis of monthly estimates of partial completion, approved by the ENGINEER. The unit prices for each pay item named in the Proposal shall be utilized for Change Orders (additions or deductions) except as otherwise provided in the detailed specifications for each class of work.

Article 5. PAYMENT PROCEDURES

- 5.1 Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions. Payments for completed work shall not be released until the CONTRACTOR has supplied the OWNER lien waivers.
 - 5.1a Payments shall be reviewed and payment issued to the Contractor in accordance with the "Local Government Prompt Payment Act" (50 ILCS 505/).
- 5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

Article 6. INTEREST (Deleted)

Article 7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representation:

- 7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State, and local laws, Ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the work.
- 7.2 CONTRACTOR has studied carefully all available reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress, or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 7.3 CONTRACTOR has made or caused to be made examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.6 THE CONTRACTOR shall notify the City of St. Charles 48 hours prior to the start of any construction. A signed copy of the Notice of Award and Notice to Proceed shall be returned to the OWNER acknowledging receipt of these documents.
- 7.7 THE CONTRACTOR shall notify "J.U.L.I.E.", the "Joint Utility Locating Information for Excavators", (1-800-892-0123) at least 72 hours (not including Saturdays, Sundays or Holidays) prior to commencement of any construction activities.

8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof and consist of the following:

- 8.1 CONTRACTOR'S Proposal (pages 00300-1 to 00300-17, inclusive).
- 8.2 This Agreement (pages 00500-1 to 00500-6, inclusive).
- 8.3 Contract Payment and Performance Bonds (Section 00600).

- 8.4 Notice of Award.
- 8.5 Notice to Proceed.
- 8.6 General Conditions (pages 00700-1 to 00700-41).
- 8.7 Supplementary Conditions (pages 00800-1 to 00800-12, inclusive).
- 8.8 Engineering Drawings, standard details, and quantity schedules included Specifications bearing the title **Woods of Fox Glen Creek Stabilization**.
- 8.9 Prevailing Wage Rates (Section 00750)
- 8.10 Addenda numbers ... to ..., inclusive.
- 8.11 Any modification, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended, or repealed by a Modification (as defined in Section 1 of the General Conditions).

Article 9. MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

Article 10. OTHER PROVISIONS.

- 10.1 ASSIGNMENT of the contract or any part thereof, or any funds to be received thereunder, shall be subject to the approval of the City of St. Charles.
- 10.2 DEFAULT - THE CONTRACT may be canceled or annulled by the Purchasing Manager in whole or in part by written notice of default to the contractor upon nonperformance or violation of contract terms. An award may be made by the City to the next low bidder, or articles specified may be purchased on the open market similar to those terminated. In either event, the defaulting contractor (or his surety)

shall be liable to the City of costs to the City in excess of the defaulted contract prices. The contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his bid, unless extended in writing by the City Engineer or his representative, or any other material breach, shall constitute contract default.

- 10.3 HEALTH AND SAFETY ACT - All work under this contract shall comply with the occupational Safety and Health Act (OSHA) of 1975, and all other Federal, state or local statutes, rules, or regulations affecting the work done under the contract.
- 10.4 PREVAILING WAGE RATE - All work under this contract shall comply with the Prevailing Wage Rate Act of the State of Illinois, Illinois Revised Statutes, 1987, Chapter 48, par. 39s-1, et.seq. and as amended by Public Acts 886-799 and 886-693 and resolution of the City in effect at the time work is performed. Current copies of this information are provided in Section 0750 of this document.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on the _____ day of _____, 2015.

CITY OF ST. CHARLES CONTRACTOR _____

By _____
Raymond Rogina, Mayor

By _____

Title _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____
Nancy Garrison, City Clerk

Attest _____

Title _____

Address for giving notices

Office of the City Clerk
Two East Main Street

St. Charles, IL 60174

Address for giving notices

END OF SECTION

SECTION 00600
PERFORMANCE BOND &
PAYMENT BOND

00600-1

PERFORMANCE BOND

CONTRACTOR *(name and address):*

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

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: None See Paragraph 16

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

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

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

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the

Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than

the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including

allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

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

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

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: None See Paragraph 18

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

CONTRACTOR AS PRINCIPAL

SURETY

_____ *(seal)*

Contractor's Name and Corporate Seal

_____ *(seal)*

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

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

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

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

SECTION 00650
CERTIFICATE OF INSURANCE REQUIREMENTS

00600-1



City of St. Charles Certificate of Insurance Requirements

All Contractors, Manufacturers/Distributors, and Suppliers shall be required to carry and evidence insurance coverage with a standard Acord Certificate of Insurance with minimum limits applicable. Sample attached.

1. Minimum Insurance Requirements and Limits

	<i>Coverage</i>		<i>Limits</i>
A.	Automobile Liability	\$1,000,000	Combined single limit
B.	Commercial General Liability	\$1,000,000	Per occurrence
		\$2,000,000	General aggregate

All Commercial General Liability policies must include Blanket Contractual coverage and Broad Form Vendors' Liability coverage.

C.	Workers' Compensation (Employers' Liability)	\$500,000	Per accident
		\$500,000	Disease limit
		\$500,000	Each Disease
D.	Umbrella Liability	\$5,000,000	Limit

2. Cancellation or Alteration

The policies of insurance required by this exhibit shall provide that they cannot be cancelled or altered in any way changing coverage except after 30 days' prior written notice by certified mail to owner.

3. Workers' Compensation and General Liability Waiver of Subrogation in favor of the City.

4. Insurance Certificates

- Must be submitted ten (10) days prior to any work being performed to allow review of certificates.
- Certificates not meeting requirements must be revised and resubmitted within fifteen (15) days or the subcontractor will not be allowed on the jobsite.

5. Additional Insured and Broad Form Vendors' Liability in favor of the City.

The City must be named as an Additional Insured with the following wording appearing on the Certificate of Insurance: "The City of St. Charles and any official, trustee, director, officer, or employee of the City (plus any holder or mortgage as designated by the City) as to any and all projects, as an Additional Insured for the Commercial General Liability as respects any and all projects for any work being performed and this coverage will be primary and noncontributory."

6. Minimum Insurance Carrier

All contractors, manufacturers/distributors, and suppliers' insurance carriers must comply with the minimum A.M Best rating of A-VI for all insurance carriers.

SECTION 00700
GENERAL CONDITIONS

00700-1

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



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

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

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**STANDARD GENERAL CONDITIONS OF THE
CONSTRUCTION CONTRACT**

TABLE OF CONTENTS

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

5.06	Hazardous Environmental Conditions at Site.....	17
Article 6 – Bonds and Insurance		19
6.01	Performance, Payment, and Other Bonds	19
6.02	Insurance—General Provisions	19
6.03	Contractor’s Insurance	20
6.04	Owner’s Liability Insurance	23
6.05	Property Insurance	23
6.06	Waiver of Rights	25
6.07	Receipt and Application of Property Insurance Proceeds.....	25
Article 7 – Contractor’s Responsibilities		26
7.01	Supervision and Superintendence.....	26
7.02	Labor; Working Hours	26
7.03	Services, Materials, and Equipment.....	26
7.04	“Or Equals”	27
7.05	Substitutes.....	28
7.06	Concerning Subcontractors, Suppliers, and Others	29
7.07	Patent Fees and Royalties	31
7.08	Permits	31
7.09	Taxes.....	32
7.10	Laws and Regulations.....	32
7.11	Record Documents	32
7.12	Safety and Protection.....	32
7.13	Safety Representative	33
7.14	Hazard Communication Programs	33
7.15	Emergencies	34
7.16	Shop Drawings, Samples, and Other Submittals.....	34
7.17	Contractor’s General Warranty and Guarantee.....	36
7.18	Indemnification	37
7.19	Delegation of Professional Design Services.....	37
Article 8 – Other Work at the Site		38
8.01	Other Work.....	38
8.02	Coordination.....	39
8.03	Legal Relationships.....	39

Article 9 – Owner’s Responsibilities	40
9.01 Communications to Contractor	40
9.02 Replacement of Engineer	40
9.03 Furnish Data	40
9.04 Pay When Due	40
9.05 Lands and Easements; Reports, Tests, and Drawings	40
9.06 Insurance	40
9.07 Change Orders.....	40
9.08 Inspections, Tests, and Approvals	41
9.09 Limitations on Owner’s Responsibilities	41
9.10 Undisclosed Hazardous Environmental Condition	41
9.11 Evidence of Financial Arrangements.....	41
9.12 Safety Programs	41
Article 10 – Engineer’s Status During Construction.....	41
10.01 Owner’s Representative	41
10.02 Visits to Site	41
10.03 Project Representative	42
10.04 Rejecting Defective Work.....	42
10.05 Shop Drawings, Change Orders and Payments.....	42
10.06 Determinations for Unit Price Work	42
10.07 Decisions on Requirements of Contract Documents and Acceptability of Work	42
10.08 Limitations on Engineer’s Authority and Responsibilities.....	42
10.09 Compliance with Safety Program	43
Article 11 – Amending the Contract Documents; Changes in the Work.....	43
11.01 Amending and Supplementing Contract Documents.....	43
11.02 Owner-Authorized Changes in the Work	44
11.03 Unauthorized Changes in the Work	44
11.04 Change of Contract Price.....	44
11.05 Change of Contract Times	45
11.06 Change Proposals	45
11.07 Execution of Change Orders.....	46
11.08 Notification to Surety	47
Article 12 – Claims	47

12.01	Claims	47
Article 13 – Cost of the Work; Allowances; Unit Price Work		48
13.01	Cost of the Work	48
13.02	Allowances.....	50
13.03	Unit Price Work	51
Article 14 – Tests and Inspections; Correction, Removal or Acceptance of Defective Work.....		52
14.01	Access to Work	52
14.02	Tests, Inspections, and Approvals	52
14.03	Defective Work.....	53
14.04	Acceptance of Defective Work.....	53
14.05	Uncovering Work.....	53
14.06	Owner May Stop the Work.....	54
14.07	Owner May Correct Defective Work.....	54
Article 15 – Payments to Contractor; Set-Offs; Completion; Correction Period.....		55
15.01	Progress Payments	55
15.02	Contractor’s Warranty of Title	58
15.03	Substantial Completion	58
15.04	Partial Use or Occupancy	59
15.05	Final Inspection	59
15.06	Final Payment.....	59
15.07	Waiver of Claims.....	61
15.08	Correction Period	61
Article 16 – Suspension of Work and Termination.....		62
16.01	Owner May Suspend Work	62
16.02	Owner May Terminate for Cause	62
16.03	Owner May Terminate For Convenience	63
16.04	Contractor May Stop Work or Terminate	63
Article 17 – Final Resolution of Disputes.....		64
17.01	Methods and Procedures	64
Article 18 – Miscellaneous.....		64
18.01	Giving Notice	64
18.02	Computation of Times.....	64
18.03	Cumulative Remedies.....	64

18.04	Limitation of Damages	65
18.05	No Waiver.....	65
18.06	Survival of Obligations.....	65
18.07	Controlling Law.....	65
18.08	Headings.....	65

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

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

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

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

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

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

1.02 *Terminology*

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

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

2.02 *Copies of Documents*

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

2.03 *Before Starting Construction*

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

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Initial Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

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

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

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

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

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

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

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

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

B. *Resolving Discrepancies:*

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

3.04 *Requirements of the Contract Documents*

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

3.05 *Reuse of Documents*

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

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

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

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

4.05 *Delays in Contractor's Progress*

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

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

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

5.01 *Availability of Lands*

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

5.02 *Use of Site and Other Areas*

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

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

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

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

5.03 *Subsurface and Physical Conditions*

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

5.04 *Differing Subsurface or Physical Conditions*

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

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

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

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

5.05 *Underground Facilities*

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

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

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

5.06 *Hazardous Environmental Conditions at Site*

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

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

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

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

6.02 *Insurance—General Provisions*

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

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

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 Contractor's Insurance

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

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

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

- G. *Additional insureds:* The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance:* If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
 - 1. include at least the specific coverages provided in this Article.
 - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

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

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 - 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 - 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).

5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

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

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

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

7.02 *Labor; Working Hours*

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

7.03 *Services, Materials, and Equipment*

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

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

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

7.04 "Or Equals"

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

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

7.05 *Substitutes*

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

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

7.06 *Concerning Subcontractors, Suppliers, and Others*

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

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

O. Nothing in the Contract Documents:

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

7.07 *Patent Fees and Royalties*

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

7.08 *Permits*

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

7.09 *Taxes*

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

7.10 *Laws and Regulations*

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

7.11 *Record Documents*

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

7.12 *Safety and Protection*

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

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

7.13 *Safety Representative*

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

7.14 *Hazard Communication Programs*

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

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

7.15 *Emergencies*

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

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

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

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

1. *Shop Drawings:*

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

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

2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
 5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

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

E. *Resubmittal Procedures:*

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

7.17 *Contractor's General Warranty and Guarantee*

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

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

7.18 *Indemnification*

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

7.19 *Delegation of Professional Design Services*

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

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

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

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

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

8.02 *Coordination*

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

8.03 *Legal Relationships*

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

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

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

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

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

10.03 *Project Representative*

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

10.04 *Rejecting Defective Work*

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

10.05 *Shop Drawings, Change Orders and Payments*

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

10.06 *Determinations for Unit Price Work*

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

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

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

10.08 *Limitations on Engineer's Authority and Responsibilities*

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

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

10.09 *Compliance with Safety Program*

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

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

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

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

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

11.02 *Owner-Authorized Changes in the Work*

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

11.03 *Unauthorized Changes in the Work*

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

11.04 *Change of Contract Price*

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

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

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

11.05 *Change of Contract Times*

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

11.06 *Change Proposals*

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

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

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

11.07 Execution of Change Orders

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

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

11.08 *Notification to Surety*

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

ARTICLE 12 – CLAIMS

12.01 *Claims*

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

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

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

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

13.01 Cost of the Work

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

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

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

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

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

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

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

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

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

13.02 Allowances

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

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

13.03 *Unit Price Work*

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

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

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

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

14.03 *Defective Work*

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

14.04 *Acceptance of Defective Work*

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

14.05 *Uncovering Work*

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

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

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

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

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

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

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

15.01 Progress Payments

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

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

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

D. *Payment Becomes Due:*

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

E. *Reductions in Payment by Owner:*

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

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

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

15.02 *Contractor's Warranty of Title*

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

15.03 *Substantial Completion*

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

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

15.04 *Partial Use or Occupancy*

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

15.05 *Final Inspection*

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

15.06 *Final Payment*

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

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

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

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

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

C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

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

15.07 *Waiver of Claims*

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

15.08 *Correction Period*

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

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

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

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

16.02 *Owner May Terminate for Cause*

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

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

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

16.03 *Owner May Terminate For Convenience*

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

16.04 *Contractor May Stop Work or Terminate*

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

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

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

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

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

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

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

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

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Headings*

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

SECTION 00750
PREVAILING WAGE RATES

00750-1

Kane County Prevailing Wage for July 2015

(See explanation of column headings at bottom of wages)

Trade Name	RG	TYP	C	Base	FRMAN	M-F>8	OSA	OSH	H/W	Pensn	Vac	Trng		
ASBESTOS ABT-GEN		ALL		39.400	39.950	1.5	1.5	2.0	13.42	11.28	0.000	0.500		
ASBESTOS ABT-MEC		BLD		36.340	38.840	1.5	1.5	2.0	11.47	10.96	0.000	0.720		
BOILERMAKER		BLD		47.070	51.300	2.0	2.0	2.0	6.970	18.13	0.000	0.400		
BRICK MASON		BLD		43.780	48.160	1.5	1.5	2.0	10.05	14.43	0.000	1.030		
CARPENTER		ALL		44.350	46.350	1.5	1.5	2.0	11.79	16.40	0.000	0.630		
CEMENT MASON		ALL		43.000	45.000	2.0	1.5	2.0	10.00	18.27	0.000	0.500		
CERAMIC TILE FNSHER		BLD		36.810	0.000	1.5	1.5	2.0	10.55	9.230	0.000	0.770		
COMMUNICATION TECH	N	BLD		36.360	38.460	1.5	1.5	2.0	12.27	10.25	0.000	0.640		
COMMUNICATION TECH	S	BLD		38.620	40.720	1.5	1.5	2.0	10.19	10.81	0.000	1.350		
ELECTRIC PWR EQMT OP		ALL		37.890	51.480	1.5	1.5	2.0	5.000	11.75	0.000	0.380		
ELECTRIC PWR EQMT OP		HWY		39.220	53.290	1.5	1.5	2.0	5.000	12.17	0.000	0.390		
ELECTRIC PWR GRNDMAN		ALL		29.300	51.480	1.5	1.5	2.0	5.000	9.090	0.000	0.290		
ELECTRIC PWR GRNDMAN		HWY		30.330	53.290	1.5	1.5	2.0	5.000	9.400	0.000	0.300		
ELECTRIC PWR LINEMAN		ALL		45.360	51.480	1.5	1.5	2.0	5.000	14.06	0.000	0.450		
ELECTRIC PWR LINEMAN		HWY		46.950	53.290	1.5	1.5	2.0	5.000	14.56	0.000	0.470		
ELECTRIC PWR TRK DRV		ALL		30.340	51.480	1.5	1.5	2.0	5.000	9.400	0.000	0.300		
ELECTRIC PWR TRK DRV		HWY		31.400	53.290	1.5	1.5	2.0	5.000	9.730	0.000	0.310		
ELECTRICIAN	N	ALL		43.750	48.130	1.5	1.5	2.0	14.66	12.31	0.000	0.880		
ELECTRICIAN	S	BLD		45.950	50.550	1.5	1.5	2.0	10.57	12.87	0.000	1.610		
ELEVATOR CONSTRUCTOR		BLD		50.800	57.150	2.0	2.0	2.0	13.57	14.21	4.060	0.600		
FENCE ERECTOR		ALL		45.060	48.660	2.0	2.0	2.0	10.52	20.76	0.000	0.700		
GLAZIER		BLD		40.500	42.000	1.5	2.0	2.0	13.14	16.99	0.000	0.940		
HT/FROST INSULATOR		BLD		48.450	50.950	1.5	1.5	2.0	11.47	12.16	0.000	0.720		
IRON WORKER		ALL		45.060	48.660	2.0	2.0	2.0	10.52	20.76	0.000	0.700		
LABORER		ALL		39.200	39.950	1.5	1.5	2.0	13.42	11.28	0.000	0.500		
LATHER		ALL		42.520	44.520	1.5	1.5	2.0	13.29	12.76	0.000	0.630		
MACHINIST		BLD		45.350	47.850	1.5	1.5	2.0	7.260	8.950	1.850	0.000		
MARBLE FINISHERS		ALL		32.400	34.320	1.5	1.5	2.0	10.05	13.75	0.000	0.620		
MARBLE MASON		BLD		43.030	47.330	1.5	1.5	2.0	10.05	14.10	0.000	0.780		
MATERIAL TESTER I		ALL		29.200	0.000	1.5	1.5	2.0	13.42	11.28	0.000	0.500		
MATERIALS TESTER II		ALL		34.200	0.000	1.5	1.5	2.0	13.42	11.28	0.000	0.500		
MILLWRIGHT		ALL		44.350	46.350	1.5	1.5	2.0	11.79	16.40	0.000	0.630		
OPERATING ENGINEER		BLD 1		48.100	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 2		46.800	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 3		44.250	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 4		42.500	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 5		51.850	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 6		49.100	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		BLD 7		51.100	52.100	2.0	2.0	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		FLT		36.000	36.000	1.5	1.5	2.0	17.10	11.80	1.900	1.250		
OPERATING ENGINEER		HWY 1		46.300	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 2		45.750	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 3		43.700	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 4		42.300	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 5		41.100	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 6		49.300	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
OPERATING ENGINEER		HWY 7		47.300	50.300	1.5	1.5	2.0	17.55	12.65	1.900	1.250		
ORNAMNTL IRON WORKER		ALL		45.060	48.660	2.0	2.0	2.0	10.52	20.76	0.000	0.700		
PAINTER		ALL		41.730	43.730	1.5	1.5	1.5	10.30	8.200	0.000	1.350		
PAINTER SIGNS		BLD		33.920	38.090	1.5	1.5	1.5	2.600	2.710	0.000	0.000		
PILEDRIIVER		ALL		44.350	46.350	1.5	1.5	2.0	11.79	16.40	0.000	0.630		
PIPEFITTER		BLD		46.000	49.000	1.5	1.5	2.0	9.000	15.85	0.000	1.780		
PLASTERER		BLD		43.430	46.040	1.5	1.5	2.0	13.05	14.43	0.000	1.020		
PLUMBER		BLD		46.650	48.650	1.5	1.5	2.0	13.18	11.46	0.000	0.880		
ROOFER		BLD		41.000	44.000	1.5	1.5	2.0	8.280	10.54	0.000	0.530		
SHEETMETAL WORKER		BLD		44.720	46.720	1.5	1.5	2.0	10.65	13.31	0.000	0.820		
SIGN HANGER		BLD		26.070	27.570	1.5	1.5	2.0	3.800	3.550	0.000	0.000		
SPRINKLER FITTER		BLD		49.200	51.200	1.5	1.5	2.0	11.75	9.650	0.000	0.550		
STEEL ERECTOR		ALL		45.060	48.660	2.0	2.0	2.0	10.52	20.76	0.000	0.700		
STONE MASON		BLD		43.780	48.160	1.5	1.5	2.0	10.05	14.43	0.000	1.030		
SURVEY WORKER			-->NOT IN EFFECT		ALL	37.000	37.750	1.5	1.5	2.0	12.97	9.930	0.000	0.500
TERRAZZO FINISHER		BLD		38.040	0.000	1.5	1.5	2.0	10.55	11.22	0.000	0.720		
TERRAZZO MASON		BLD		41.880	44.880	1.5	1.5	2.0	10.55	12.51	0.000	0.940		
TILE MASON		BLD		43.840	47.840	1.5	1.5	2.0	10.55	11.40	0.000	0.990		

TRAFFIC SAFETY WRKR	HWY	32.750	34.350	1.5	1.5	2.0	6.550	6.450	0.000	0.500
TRUCK DRIVER	ALL 1	35.920	36.120	1.5	1.5	2.0	8.280	8.760	0.000	0.150
TRUCK DRIVER	ALL 2	32.700	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.150
TRUCK DRIVER	ALL 3	32.900	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.150
TRUCK DRIVER	ALL 4	33.100	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.150
TUCKPOINTER	BLD	43.800	44.800	1.5	1.5	2.0	8.280	13.49	0.000	0.670

Legend:

RG (Region)
 TYP (Trade Type - All, Highway, Building, Floating, Oil & Chip, Rivers)
 C (Class)
 Base (Base Wage Rate)
 FRMAN (Foreman Rate)
 M-F>8 (OT required for any hour greater than 8 worked each day, Mon through Fri.
 OSA (Overtime (OT) is required for every hour worked on Saturday)
 OSH (Overtime is required for every hour worked on Sunday and Holidays)
 H/W (Health & Welfare Insurance)
 Pensn (Pension)
 Vac (Vacation)
 Trng (Training)

Explanations**KANE COUNTY**

ELECTRICIANS AND COMMUNICATIONS TECHNICIAN (NORTH) - Townships of Burlington, Campton, Dundee, Elgin, Hampshire, Plato, Rutland, St. Charles (except the West half of Sec. 26, all of Secs. 27, 33, and 34, South half of Sec. 28, West half of Sec. 35), Virgil and Valley View CCC and Elgin Mental Health Center.

The following list is considered as those days for which holiday rates of wages for work performed apply: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day in some classifications/counties. Generally, any of these holidays which fall on a Sunday is celebrated on the following Monday. This then makes work performed on that Monday payable at the appropriate overtime rate for holiday pay. Common practice in a given local may alter certain days of celebration. If in doubt, please check with IDOL.

EXPLANATION OF CLASSES

ASBESTOS - GENERAL - removal of asbestos material/mold and hazardous materials from any place in a building, including mechanical systems where those mechanical systems are to be removed. This includes the removal of asbestos materials/mold and hazardous materials from ductwork or pipes in a building when the building is to be demolished at the time or at some close future date.

ASBESTOS - MECHANICAL - removal of asbestos material from mechanical systems, such as pipes, ducts, and boilers, where the mechanical systems are to remain.

CERAMIC TILE FINISHER

The grouting, cleaning, and polishing of all classes of tile, whether for interior or exterior purposes, all burned, glazed or unglazed products; all composition materials, granite tiles, warning detectable tiles, cement tiles, epoxy composite materials, pavers, glass, mosaics, fiberglass, and all substitute materials, for tile made in tile-like units; all mixtures in tile like form of cement, metals, and other materials that are for and intended for use as a finished floor surface, stair treads, promenade roofs, walks, walls, ceilings, swimming pools, and all other places where tile is to form a finished interior or exterior. The mixing of all setting mortars including but not limited to thin-set mortars, epoxies, wall mud, and any other sand and cement mixtures or adhesives when used in the preparation, installation, repair, or maintenance of tile and/or similar materials.

The handling and unloading of all sand, cement, lime, tile, fixtures, equipment, adhesives, or any other materials to be used in the preparation, installation, repair, or maintenance of tile and/or similar materials. Ceramic Tile Finishers shall fill all joints and voids regardless of method on all tile work, particularly and especially after installation of said tile work. Application of any and all protective coverings to all types of tile installations including, but not be limited to, all soap compounds, paper products, tapes, and all polyethylene coverings, plywood, masonite, cardboard, and any new type of products that may be used to protect tile installations, Blastrac equipment, and all floor scarifying equipment used in preparing floors to receive tile. The clean up and removal of all waste and materials. All demolition of existing tile floors and walls to be re-tiled.

COMMUNICATIONS TECHNICIAN

Construction, installation, maintenance and removal of telecommunication facilities (voice, sound, data and video), telephone, security systems, fire alarm systems that are a component of a multiplex system and share a common cable, and data inside wire, interconnect, terminal equipment, central offices, PABX and equipment, micro waves, V-SAT, bypass, CATV, WAN (wide area network), LAN (local area networks), and ISDN (integrated system digital network), pulling of wire in raceways, but not the installation of raceways.

MARBLE FINISHER

Loading and unloading trucks, distribution of all materials (all stone, sand, etc.), stocking of floors with material, performing all rigging for heavy work, the handling of all material that may be needed for the installation of such materials, building of scaffolding, polishing if needed, patching, waxing of material if damaged, pointing up, caulking, grouting and cleaning of marble, holding water on diamond or Carborundum blade or saw for setters cutting, use of tub saw or any other saw needed for preparation of material, drilling of holes for wires that anchor material set by setters, mixing up of molding plaster for installation of material, mixing up thin set for the installation of material, mixing up of sand to cement for the installation of material and such other work as may be required in helping a Marble Setter in the handling of all material in the erection or installation of interior marble, slate, travertine, art marble, serpentine, alberene stone, blue stone, granite and other stones (meaning as to stone any foreign or domestic materials as are specified and used in building interiors and exteriors and customarily known as stone in the trade), carrara, sanionyx, vitrolite and similar opaque glass and the laying of all marble tile, terrazzo tile, slate tile and precast tile, steps, risers treads, base, or any other materials that may be used as substitutes for any of the aforementioned materials and which are used on interior and exterior which are installed in a similar manner.

MATERIAL TESTER I: Hand coring and drilling for testing of materials; field inspection of uncured concrete and asphalt.

MATERIAL TESTER II: Field inspection of welds, structural steel, fireproofing, masonry, soil, facade, reinforcing steel, formwork, cured concrete, and concrete and asphalt batch plants; adjusting proportions of bituminous mixtures.

OPERATING ENGINEER - BUILDING

Class 1. Asphalt Plant; Asphalt Spreader; Autograde; Backhoes with Caisson Attachment; Batch Plant; Benoto (requires Two Engineers); Boiler and Throttle Valve; Caisson Rigs; Central Redi-Mix Plant; Combination Back Hoe Front End-loader Machine; Compressor and Throttle Valve; Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Conveyor (Truck Mounted); Concrete Paver Over 27E cu. ft; Concrete Paver 27E cu. ft. and Under; Concrete Placer; Concrete Placing Boom; Concrete Pump (Truck Mounted); Concrete Tower; Cranes, All; Cranes,

Hammerhead; Cranes, (GCI and similar Type); Creter Crane; Spider Crane; Crusher, Stone, etc.; Derricks, All; Derricks, Traveling; Formless Curb and Gutter Machine; Grader, Elevating; Grouting Machines; Heavy Duty Self-Propelled Transporter or Prime Mover; Highlift Shovels or Front Endloader 2-1/4 yd. and over; Hoists, Elevators, outside type rack and pinion and similar machines; Hoists, One, Two and Three Drum; Hoists, Two Tugger One Floor; Hydraulic Backhoes; Hydraulic Boom Trucks; Hydro Vac (and similar equipment); Locomotives, All; Motor Patrol; Lubrication Technician; Manipulators; Pile Drivers and Skid Rig; Post Hole Digger; Pre-Stress Machine; Pump Cretes Dual Ram; Pump Cretes: Squeeze Cretes-Screw Type Pumps; Gypsum Bulker and Pump; Raised and Blind Hole Drill; Roto Mill Grinder; Scoops - Tractor Drawn; Slip-Form Paver; Straddle Buggies; Operation of Tie Back Machine; Tournapull; Tractor with Boom and Side Boom; Trenching Machines.

Class 2. Boilers; Broom, All Power Propelled; Bulldozers; Concrete Mixer (Two Bag and Over); Conveyor, Portable; Forklift Trucks; Highlift Shovels or Front Endloaders under 2-1/4 yd.; Hoists, Automatic; Hoists, Inside Elevators; Hoists, Sewer Dragging Machine; Hoists, Tugger Single Drum; Laser Screed; Rock Drill (Self-Propelled); Rock Drill (Truck Mounted); Rollers, All; Steam Generators; Tractors, All; Tractor Drawn Vibratory Roller; Winch Trucks with "A" Frame.

Class 3. Air Compressor; Combination Small Equipment Operator; Generators; Heaters, Mechanical; Hoists, Inside Elevators (remodeling or renovation work); Hydraulic Power Units (Pile Driving, Extracting, and Drilling); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Low Boys; Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches.

Class 4. Bobcats and/or other Skid Steer Loaders; Oilers; and Brick Forklift.

Class 5. Assistant Craft Foreman.

Class 6. Gradall.

Class 7. Mechanics; Welders.

OPERATING ENGINEERS - HIGHWAY CONSTRUCTION

Class 1. Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Heater Scarfire; Asphalt Spreader; Autograder/GOMACO or other similar type machines; ABG Paver; Backhoes with Caisson Attachment; Ballast Regulator; Belt Loader; Caisson Rigs; Car Dumper; Central Redi-Mix Plant; Combination Backhoe Front Endloader Machine, (1 cu. yd. Backhoe Bucket or over or with attachments); Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Tower Cranes of all types; Creter Crane; Spider Crane; Crusher, Stone, etc.; Derricks, All; Derrick Boats; Derricks, Traveling; Dredges; Elevators, Outside type Rack & Pinion and Similar Machines; Formless Curb and Gutter Machine; Grader, Elevating; Grader, Motor Grader, Motor Patrol, Auto Patrol, Form Grader, Pull Grader, Subgrader; Guard Rail Post Driver Truck Mounted; Hoists, One, Two and Three Drum; Heavy Duty Self-Propelled Transporter or Prime Mover; Hydraulic Backhoes; Backhoes with shear attachments up to 40' of boom reach; Lubrication Technician; Manipulators; Mucking Machine; Pile Drivers and Skid Rig; Pre-Stress Machine; Pump Cretes Dual Ram; Rock Drill - Crawler or Skid Rig; Rock Drill - Truck Mounted; Rock/Track Tamper; Roto Mill Grinder; Slip-Form Paver; Snow Melters; Soil Test Drill Rig (Truck Mounted); Straddle Buggies; Hydraulic Telescoping Form (Tunnel); Operation of Tieback Machine; Tractor Drawn Belt Loader; Tractor Drawn Belt Loader (with attached pusher - two engineers); Tractor with Boom; Tractaire with Attachments; Traffic Barrier Transfer Machine; Trenching; Truck Mounted Concrete Pump with Boom; Raised or Blind Hole Drills (Tunnel Shaft); Underground Boring and/or Mining Machines 5 ft. in diameter and over tunnel, etc; Underground Boring and/or Mining Machines under 5 ft. in diameter; Wheel Excavator; Widener (APSCO).

Class 2. Batch Plant; Bituminous Mixer; Boiler and Throttle Valve; Bulldozers; Car Loader Trailing Conveyors; Combination Backhoe Front Endloader Machine (Less than 1 cu. yd. Backhoe Bucket or over or with attachments); Compressor and Throttle Valve; Compressor, Common Receiver (3); Concrete Breaker or Hydro Hammer; Concrete Grinding Machine; Concrete Mixer or Paver 7S Series to and including 27 cu. ft.; Concrete Spreader; Concrete Curing Machine, Burlap Machine, Belting Machine and Sealing Machine; Concrete Wheel Saw; Conveyor Muck Cars (Haglund or Similar Type); Drills, All; Finishing Machine - Concrete; Highlift Shovels or Front Endloader; Hoist - Sewer Dragging Machine; Hydraulic Boom Trucks (All Attachments); Hydro-Blaster; Hydro Excavating (excluding hose work); Laser Screed; All Locomotives, Dinky; Off-Road Hauling Units (including articulating) Non Self-Loading Ejection Dump; Pump Cretes: Squeeze Cretes - Screw Type Pumps, Gypsum Bulker and Pump; Roller, Asphalt; Rotary Snow Flows; Rototiller, Seaman, etc., self-propelled; Self-Propelled Compactor; Spreader - Chip - Stone, etc.; Scraper - Single/Twin Engine/Push and Pull; Scraper - Prime Mover in Tandem (Regardless of Size); Tractors pulling attachments, Sheeps Foot, Disc, Compactor, etc.; Tug Boats.

Class 3. Boilers; Brooms, All Power Propelled; Cement Supply Tender; Compressor, Common Receiver (2); Concrete Mixer (Two Bag and Over); Conveyor, Portable; Farm-Type Tractors Used for Mowing, Seeding, etc.; Forklift Trucks; Grouting Machine; Hoists, Automatic; Hoists, All Elevators; Hoists, Tugger Single Drum; Jeep Diggers; Low Boys; Pipe Jacking Machines; Post-Hole Digger; Power Saw, Concrete Power Driven; Pug Mills; Rollers, other than Asphalt; Seed and Straw Blower; Steam Generators; Stump Machine; Winch Trucks with "A" Frame; Work Boats; Tamper-Form-Motor Driven.

Class 4. Air Compressor; Combination - Small Equipment Operator; Directional Boring Machine; Generators; Heaters, Mechanical; Hydraulic Power Unit (Pile Driving, Extracting, or Drilling); Light Plants, All (1 through 5); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Vacuum Trucks (excluding hose work); Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches.

Class 5. SkidSteer Loader (all); Brick Forklifts; Oilers.

Class 6. Field Mechanics and Field Welders

Class 7. Dowell Machine with Air Compressor; Gradall and machines of like nature.

OPERATING ENGINEERS - FLOATING

Diver. Diver Wet Tender, Diver Tender, ROV Pilot, ROV Tender

SURVEY WORKER - Operated survey equipment including data collectors, G.P.S. and robotic instruments, as well as conventional levels and transits.

TRAFFIC SAFETY - work associated with barricades, horses and drums used to reduce lane usage on highway work, the installation and removal of temporary lane markings, and the installation and removal of temporary road signs.

TRUCK DRIVER - BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

Class 1. Two or three Axle Trucks. A-frame Truck when used for transportation purposes; Air Compressors and Welding Machines, including those pulled by cars, pick-up trucks and tractors; Ambulances; Batch Gate Lockers; Batch Hopperman; Car and Truck Washers; Carry-alls; Fork Lifts and Hoisters; Helpers; Mechanics Helpers and Greasers; Oil Distributors 2-man operation; Pavement Breakers; Pole Trailer, up to 40 feet; Power Mower Tractors; Self-propelled Chip Spreader; Skipman; Slurry Trucks, 2-man operation; Slurry Truck Conveyor Operation, 2 or 3 man; Teamsters; Unskilled Dumpman; and Truck Drivers hauling warning lights,

barricades, and portable toilets on the job site.

Class 2. Four axle trucks; Dump Crets and Adgetors under 7 yards; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turnapulls or Turnatrailers when pulling other than self-loading equipment or similar equipment under 16 cubic yards; Mixer Trucks under 7 yards; Ready-mix Plant Hopper Operator, and Winch Trucks, 2 Axles.

Class 3. Five axle trucks; Dump Crets and Adgetors 7 yards and over; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turnatrailers or turnapulls when pulling other than self-loading equipment or similar equipment over 16 cubic yards; Explosives and/or Fission Material Trucks; Mixer Trucks 7 yards or over; Mobile Cranes while in transit; Oil Distributors, 1-man operation; Pole Trailer, over 40 feet; Pole and Expandable Trailers hauling material over 50 feet long; Slurry trucks, 1-man operation; Winch trucks, 3 axles or more; Mechanic--Truck Welder and Truck Painter.

Class 4. Six axle trucks; Dual-purpose vehicles, such as mounted crane trucks with hoist and accessories; Foreman; Master Mechanic; Self-loading equipment like P.B. and trucks with scoops on the front.

TERRAZZO FINISHER

The handling of sand, cement, marble chips, and all other materials that may be used by the Mosaic Terrazzo Mechanic, and the mixing, grinding, grouting, cleaning and sealing of all Marble, Mosaic, and Terrazzo work, floors, base, stairs, and wainscoting by hand or machine, and in addition, assisting and aiding Marble, Masonic, and Terrazzo Mechanics.

Other Classifications of Work:

For definitions of classifications not otherwise set out, the Department generally has on file such definitions which are available. If a task to be performed is not subject to one of the classifications of pay set out, the Department will upon being contacted state which neighboring county has such a classification and provide such rate, such rate being deemed to exist by reference in this document. If no neighboring county rate applies to the task, the Department shall undertake a special determination, such special determination being then deemed to have existed under this determination. If a project requires these, or any classification not listed, please contact IDOL at 217-782-1710 for wage rates or clarifications.

LANDSCAPING

Landscaping work falls under the existing classifications for laborer, operating engineer and truck driver. The work performed by landscape plantsman and landscape laborer is covered by the existing classification of laborer. The work performed by landscape operators (regardless of equipment used or its size) is covered by the classifications of operating engineer. The work performed by landscape truck drivers (regardless of size of truck driven) is covered by the classifications of truck driver.

MATERIAL TESTER & MATERIAL TESTER/INSPECTOR I AND II

Notwithstanding the difference in the classification title, the classification entitled "Material Tester I" involves the same job duties as the classification entitled "Material Tester/Inspector I". Likewise, the classification entitled "Material Tester II" involves the same job duties as the classification entitled "Material Tester/Inspector II".

SECTION 00800
SUPPLEMENTARY CONDITIONS

00800-1

SECTION 00800

SUPPLEMENTARY CONDITIONS

The following supplements shall modify, change, delete from, and/or add to the "Standard General Conditions of the Construction Contract" (Document No. EJCDC C-700)." Where any article, paragraph, or subparagraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such article, paragraph, or subparagraph shall remain in effect and the supplementary provisions shall be considered as added thereto. Where any article, paragraph, or subparagraph in the General Conditions is amended, voided, or superseded by any of the following paragraphs, the provisions of such article, paragraph, or subparagraph so amended, voided, or superseded shall remain in effect.

ARTICLE 1 - DEFINITIONS

CONTRACT TIMES Amend paragraph defining "CONTRACT TIMES" to read as follows:

Contract time shall be the time period commencing on the date of issuance of "Notice to Proceed" and concluding on the day specified in the Contract Documents by the CONTRACTOR for the satisfactory completion of the work.

OWNER Amend paragraph defining "OWNER" to read as follows:

Whenever the word "OWNER" is used in the Contract Documents, it shall be understood to be City of St. Charles, Illinois, and duly authorized representatives thereof.

ARTICLE 5 - BONDS AND INSURANCE

SC 5.01C Add the following language at the end of Paragraph 5.01C of the General Conditions.

In addition, no further progress payments under the Agreement will be made by owner until CONTRACTOR complies with the provisions of this Article.

SC 5.02 CONTRACTOR'S LIABILITY INSURANCE

The CONTRACTOR shall secure and maintain in effect at all times, at his expense, insurance of the following kinds and limits to cover all locations of the CONTRACTOR's operations in connection with work on his company's projects, naming the City of St. Charles as an additional insured. The CONTRACTOR shall furnish Certificates of Insurance to the owner before starting construction or within 10 days after the execution of the contract, whichever is reached first. All insurance policies shall include a non-cancellation clause provision preventing cancellation without 30 days written prior notice to the city. In case of insurance cancellation, CONTRACTOR shall obtain a new insurance policy in compliance with this paragraph prior to the effective date of cancellation. **Note: Liability umbrella is \$5,000,000. Certificates of insurance must be completed**

on ACCORD 25-S form with the cancellation clause revised and revisions initialed.

SC 5.02A The CONTRACTOR shall in all respects comply with any and all statutes and Ordinances which impose any duty or obligation upon either the CONTRACTOR or the City of St. Charles, Illinois with respect to the performance of any part of the work hereby undertaken by the CONTRACTOR and the CONTRACTOR agrees to do and perform any and all acts required by any statutes or Ordinances to be performed by either the CONTRACTOR or the City of St. Charles, Illinois with respect to such work. The CONTRACTOR HEREBY agrees to hold the City of St. Charles, Illinois, its employees, agents, and Wills Burke Kelsey Associates (ENGINEER), harmless and to indemnify them against and to reimburse them for any loss, damage, costs, or expenses, together with reasonable attorney's fees, which they might or may incur by reason of failure of the CONTRACTOR to observe and comply with any and all such statutes and Ordinances.

SC 5.02B The CONTRACTOR shall also indemnify and hold harmless the City of St. Charles, Illinois, its employees, and agents and Wills Burke Kelsey Associates (ENGINEER) from and against any and all claims and demands whatsoever, including costs, litigation expenses, counsel fees, and liabilities incurred in connection therewith, arising out of injury to, or death whatsoever, or damage to property of any kind by whomsoever owned, caused in whole or in part by the acts or omissions of the CONTRACTOR, any Subcontractor, the CONTRACTOR'S material, men, or any other person directly or indirectly employee by them, or any of them, while engaged in the performance of the work or any activity associated therewith or relative thereto.

SC 5.02C The CONTRACTOR shall also name Wills Burke Kelsey Associates (ENGINEER), the ENGINEER'S subconsultants, and the City of St. Charles as additional insureds on his Contractor's General Liability policy on a "primary and non-contributory" basis.

SC 5.03 Delete paragraph 5.03 of the General Conditions in its entirety.

SC 5.04 Delete paragraph 5.04A and 5.04B of the General Conditions in their entirety and add the following:

SC 5.04A **APPLICABLE TO ALL POLICIES**

All policies shall be written with insurance companies licensed to do business in the State of Illinois and having a rating of not less than A VI, according to the latest edition of the A. M. Best Co.

Certificates of insurance evidencing the required coverage shall be submitted to the Owner and Engineer prior to commencing work on the project.

The limits of liability for the liability insurance shall not be less than the following amounts or greater where required by law and the other insurance coverage shall be as follows:

SC 5.04B

LIABILITY INSURANCE (refer to sheets provided)

1. Workers' Compensation

Coverage A:	Statutory
	Coverage B: \$500,000
	\$500,000
	\$500,000

Shoremans coverage will be required when working on or above a navigable waterway.

2. Comprehensive General Liability Insurance

Automobile Combined Single Limit	\$1,000,000 Per Occurrence
General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000 Per Occurrence
Personal and Advertising Injury	\$1,000,000 Per Occurrence
Each Occurrence	\$1,000,000
Fire Damage (Any One Fire)	\$100,000
Umbrella/Excess Liability	\$5,000,000

Coverage will include:

Blanket Contractual
Employees as Insureds
Broad Form Property Damage
Broad Form Lenders Liability

- a. The term "caused by an accident" shall be replaced by the term "occurrence."
- b. The City must be named as an Additional Insured with the following wording appearing on the Certificate of Insurance: " The City of St. Charles and any official, trustee, director, officer, or employee of the City (plus any holder or mortgage as designated by the City) as to any and all projects, as an Additional Insured for the Commercial General Liability as respects any and all projects for any work being performed and this coverage will be primary and noncontributory."
- c. Insurance will provide "X", "C" and "U" (explosion, collapse and underground hazard coverage) as applicable.
- d. Workers Compensation and General Liability waiver of Subrogation in Favor of ENGINEER and CITY.

3. Comprehensive Automobile Liability Insurance

Combined Single Limit \$1,000,000

- a. All owned, hired, or non-owned vehicles including the loading or unloading thereof.
- b. The term "caused by an accident" if used in bodily injury or property damage coverage shall be replaced by the term "occurrence"

4. Umbrella/Excess Liability Insurance

Limit of Liability: \$5,000,000

In addition to the insurance coverage set forth in the contract documents, the CONTRACTOR shall maintain an Umbrella/Excess Liability policy with coverages for the same perils as covered under the primary policies, including any special requirements.

5. Special Terms/ Conditions:

If the additional insured has other insurance, which is applicable to the loss, it shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.

- a. The CONTRACTOR, and all subcontractors shall not commence work under this contract until he has obtained all insurance required under this section and such insurance has been approved by the City. The CONTRACTOR and Subcontractor shall maintain all insurance required under this section for one year after substantial completion.
- b. With respect to all insurance required herein, the CONTRACTOR shall provide such insurance naming the city and all of its employees and agents as additional named insureds, including the coverage with respect to damages, losses expense and claim, including attorney's fees; for all liability involving alleged bodily injury, all liability, and property damage, liability based upon any claims brought against the City, its mean or suppliers or the employees thereof arising from whatsoever cause, relating to, arising out of or concerning the performance of the subject property.
- c. To the extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the City and its agents

and employees from and against all claims, damages, losses and expense, including attorney's fees arising out of or resulting from the performance of work, provided that any such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease or death or to destruction of tangible property (other than work itself), including a loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, or anyone for whose acts any of them may be liable, regardless of whether or not it caused in part by a party indemnified hereunder. In any and all claims against the owner or any of its agents or employees by an employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount of, type of damage's, compensation for benefits payable by or for the CONTRACTOR or any subcontractor under worker's compensation acts, liability benefit acts or other employee benefit acts. Further, the CONTRACTOR hereby agrees to hold the owner harmless and to indemnify it against and to reimburse them for any loss, damage, fines, costs or expense, together with reasonable attorney's fees, which might or may occur by reason of the failure of the CONTRACTOR to observe and comply with any and all statutes and ordinance.

6. Property Insurance

Add the following sentence to the subparagraph:

The form of the policy for this coverage shall be Completed Value.

- a. The CONTRACTOR shall provide insurance coverage for portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the work in transit.
- b. Property Insurance provided by Owner shall not cover any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring and construction equipment, which may be on the site and the capital value of which is not included in the work. The CONTRACTOR shall make his own arrangements for any insurance he may require on such construction equipment.
- c. The CONTRACTOR shall furnish bonds covering faithful performance of Contract and payment obligations arising thereunder. Bonds may be obtained through the CONTRACTOR'S usual source and the cost there shall be

included in the Contract sum. The amount of each bond shall be equal to 115% of the Contract Sum including assigned CONTRACTORS. The Owner requires all of the assigned CONTRACTORS provide bonds to the CONTRACTOR.

The policy shall be written a special form.

MISCELLANEOUS REQUIREMENTS

The CONTRACTOR is responsible for determining that subcontractors are adequately insured against claims arising out of or relating to the work. The premium cost and charges for such insurance shall be paid by each subcontractor.

The limits of liability as stated, may be arrived at using a Split-Limit or a combined Single limit basis. However, the total limit of liability shall not be less than that stated in the requirements.

Builders Risk: The CONTRACTOR shall provide and maintain Builder's Risk Insurance and installation insurance in the amount of 100% of the contract sum. The insurance must provide All Risk including Theft of Building Materials, and shall be written at 100% of completed value. The CONTRACTOR and the Owner shall be named insureds. The CONTRACTOR will be responsible for whatever deductible is used.

The CONTRACTOR shall in all respects comply with any and all statutes and ordinances which impose and duty or obligation upon either the CONTRACTOR or the City of St. Charles, Illinois with respect to the performance of any part of the work hereby undertaken by the CONTRACTOR and the CONTRACTOR agrees to do and perform any and all acts required by any statutes or Ordinances to be performed by either the CONTRACTOR or the City of St. Charles, Illinois with respect to such work.

APPLICABLE TO ALL POLICIES

All policies shall written with insurance companies licensed to do business in the state of Illinois and having a rating of not less than A VI, according to the latest edition of the A.M. Best Co.

Deductibles will not exceed \$5,000.00

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Add a new subparagraph immediately after Subparagraph 6.06G of the General Conditions, which is to read as follows:

SC 6.06H CONTRACTOR shall not award Work to Subcontractor(s) in excess of 50% of the Contract Price without prior written approval of OWNER.

SC 6.12A Add the following language at the end of paragraph 6.12A of the General Conditions.

The CONTRACTOR shall also be responsible for maintaining a marked set of drawings showing all deviations in line and grade, additions, and/or deletions to the scope of work. The CONTRACTOR shall furnish the ENGINEER with said marked set of drawings upon completion of the work for use in preparing the Record Drawings.

ARTICLE 7 - OTHER WORK AT THE SITE

SC 7.02 DELETE Paragraph 7.02 of the General Conditions in its entirety and insert the following in its place:

When the OWNER contracts with others for performance of other work on the Project at the site, the OWNER will identify a construction coordinator who will have authority and responsibility for coordination of the activities among the various prime CONTRACTORS' work at the site.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

SC 9.03 Add the following language to paragraph 9.03 of the General Conditions which is to read as follows:

The following is a listing of the "Duties, Responsibilities, and Limitations of Authority of Resident Project Representative" and supplements paragraph 9.03 of the General Conditions:

DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF THE AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE.

A. GENERAL

The Resident Project Representative is the ENGINEER'S Agent and shall act under the supervision and direction of the ENGINEER. He shall confer with the ENGINEER regarding his actions and shall generally communicate with the OWNER only through the ENGINEER.

B. DUTIES AND RESPONSIBILITIES

The Resident Project Representative shall:

1. Schedule: Review the progress schedule prepared by the CONTRACTOR for compliance with the contract and give written advice to the ENGINEER concerning its acceptability.
2. Conferences: Attend pre-construction conferences. Arrange a schedule of progress meetings and other job conferences as required in consultation with the ENGINEER and notify those expected to attend in advance. Maintain and circulate copies of records of the meetings.
3. Liaison:
 - a. Serve as the ENGINEER'S liaison with the CONTRACTOR working principally through the CONTRACTOR'S superintendent. Alert the CONTRACTOR, through his superintendent, to the hazards involved in accepting and acting upon instructions from the OWNER or other, except such instructions transmitted through the ENGINEER.
 - b. Cooperate with the CONTRACTOR in his dealings with the Project in order to complete service connections to public utilities and facilities.
 - c. Assist the ENGINEER in obtaining from the OWNER additional details or information, when required, at the job site for proper execution of the work.
4. Approvals: When required, assist the ENGINEER in obtaining from the CONTRACTOR a list of his proposed supplies and subcontractors.
5. Samples: Assist the ENGINEER in obtaining field samples of materials delivered to the site which are required to be furnished, and keep record of actions taken by ENGINEER.
6. Shop Drawings:
 - a. Receive approved shop drawings and other submissions from the ENGINEER, record data received, maintain a file of the drawings and submissions, and check construction for compliance with them.

- b. Alert the CONTRACTOR'S superintendent when he observes materials or equipment being installed before approval of shop drawings or samples, where such are required, and advise the ENGINEER when he believes it is necessary to disapprove work as failing to conform to the Contract Documents.

7. Review of Work, Inspections, and Tests

- a. Conduct on-site observations of the work in progress for the ENGINEER as a basis for determining that the Project is proceeding in accordance with the Contract Documents, and report to the ENGINEER when he believes that any work should be rejected or specially tested, or that the work should be stopped to ensure that the completed Project will comply with the requirements of the Contract Documents.

- b. Verify that tests, including equipment and systems start-up, which are required by the Contract Documents are conducted and that the CONTRACTOR maintains adequate records thereof, observe, record, and report to the ENGINEER appropriate details relative to the test procedures and start-ups.

- c. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections, and report to the ENGINEER.

8. Interpretations of Contract Documents: Transmit to the CONTRACTOR the ENGINEER'S interpretations of Contract Documents.

9. Modifications: Consider and evaluate CONTRACTOR'S suggestions for modification in drawings or specifications and report them with recommendations to the ENGINEER.

10. Records:

- a. Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings, and other submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, and additional drawings issued subsequent to the award of the contract, the ENGINEER'S interpretations of the

Contract Documents, progress reports, and other Project-related documents.

- b. Keep a diary or logbook, recording hours on the job site, weather conditions in general, and specific observations in more detail as in the case of observing test procedures.
- c. Record names, addresses, and telephone numbers of all CONTRACTORS, subcontractors, and major material suppliers.
- d. Maintain a set of drawings on which authorized changes are noted and deliver to the ENGINEER at the completion of the Project.

11. Reports:

- a. Furnish the ENGINEER periodic reports, as required, of progress of the Project and the CONTRACTOR'S compliance with approved progress schedule.
- b. Consult with the ENGINEER in advance of scheduled major tests, inspections, or start of important phases of the Project.

12. Payment Requisitions: Review applications for payment with the CONTRACTOR for compliance with the established procedure for their submission and forward them with recommendations to the ENGINEER, noting particularly their relation to the work completed and materials and equipment delivered at the site.

13. Guarantees, Certificates, Maintenance and Operation Manuals: During the course of the work, assemble Guarantees, Certificates, Maintenance and Operation Manuals, and other required data to be furnished by the CONTRACTOR; and upon acceptance of the project, deliver this material to the ENGINEER for his review and forwarding to the OWNER.

14. Completion:

- a. Prior to inspection for substantial completion, submit to the CONTRACTOR a list of observed items required correction.

- b. Conduct final inspection in the company of the ENGINEER and the OWNER and prepare a final list of items to be corrected.
- c. Verify that all items on final list have been corrected and make recommendations to the ENGINEER concerning acceptance.

C. LIMITATIONS OF AUTHORITY

Except upon written instructions of the ENGINEER, the Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents;
2. Shall not undertake any of the responsibilities of the CONTRACTOR, the subcontractors, or the CONTRACTOR'S superintendent;
3. Shall not expedite the work for the CONTRACTOR;
4. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction, unless such is specifically called for in the Contract Documents;
5. Shall not authorize the OWNER to occupy the Project in whole or in part;
6. Shall not participate in specialized field or laboratory tests.

SC 9.04 INSERT the following at the end of the last sentence, "Such authorized variations in work shall only involve engineering or plan-related issues, and shall not involve, nor be binding to the extent they relate to questions of legal interpretation of liabilities of the parties."

SC 9.9C INSERT the following to the end of the last sentence "with the exceptions of these items set forth in section 9.02, namely inspections to insure against defective work."

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

SC 10.04 DELETE Paragraph 10.03A in its entirety and INSERT the following:

"OWNER and CONTRACTOR shall execute appropriate and lawful change orders recommended by ENGINEER (or written Amendments) covering:"

END OF SECTION

DIVISION 01
GENERAL REQUIREMENTS

SECTION 01100

CONTRACT CONSIDERATIONS

1101 APPLICATIONS FOR PAYMENT

The Contractor shall submit three (3) copies of each application on Contractor's Standard form. The payment period will be a minimum of 30 days, and the application shall include Sworn Statements of Contractor and Sub-Contractors, together with supporting Lien Waivers.

1102 CHANGE ORDER PROCEDURES

The Engineer will advise of minor changes in the Work not involving an adjustment to Contract Price or Contract Time as authorized by issuing supplemental instruction by Field Order.

Work Directive Change: The Engineer may issue a directive, on the Work Directive Change Order form, signed by the Owner, instructing the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.

Document will describe changes in the Work, and designate method of determining any change in Contract Price or Contract Time. Promptly execute the change.

All conflicts involving a potential field change shall be brought to the attention of the City of St. Charles Engineering Office before construction of the field change begins. Failure to comply with this issue may result in construction that has not been approved and will therefore not be compensated for in final payment

1104 LIQUIDATED DAMAGES

Liquidated damages will be assessed as per Section 00500 of this document.

END OF SECTION

SECTION 01200

REFERENCE STANDARDS

1210 QUALITY ASSURANCE

For products or workmanship specified by association, trade, or Federal Standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.

The Contractor shall conform to current reference standards consistent with the date at the opening bid.

The hierarchy of Specifications in order of precedence from highest to lowest is as follows:

1. Contract Documents and Specifications for "**Woods of Fox Glen Creek Stabilization**" prepared by Wills Burke Kelsey Associates, Ltd. for the City of St. Charles.
2. Municipal code of the City of St. Charles.
3. "Standard Specifications for Road and Bridge Construction", Illinois Department of Transportation, (SSRBC), latest edition.

Should specified reference standards conflict with the Contract Documents, the Contractor shall request clarification from Engineer before proceeding.

The contractual relationship of the parties to the Contract shall not be altered from the Contract Documents by mention or inference otherwise in any reference document.

END OF SECTION

SECTION 01300

SUBMITTALS

1301 SUBMITTAL PROCEDURES

Contractor shall:

Identify Project, Contractor, Subcontractor, or supplier pertinent Drawing sheet and detail number(s), and specification Section number, as appropriate.

Apply Contractor's stamp, signed or initialed certifying that review, verification of Products required, field dimensions, adjacent construction Work, and coordination of information, is in accordance with the requirements of the Work and Contract Documents.

Schedule submittals to expedite the Project, and deliver to Engineer at business address. Coordinate submission of related items.

Revise and resubmit submittals as required, identify all changes made since previous submittal.

Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.

END OF SECTION

SECTION 01400
QUALITY CONTROL

1401 QUALITY ASSURANCE/CONTROL OF INSTALLATION

The Contractor shall monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality.

The contractor shall comply fully with manufacturers' instruction, including each step in sequence.

Should manufacturers' instructions conflict with Contract Documents, the Contractor shall request clarification from Engineer before proceeding.

The Contractor shall comply with specified standards as a minimum quality for the Work except when more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.

The Contractor shall perform work by persons qualified to produce workmanship of specified quality.

END OF SECTION

SECTION 01700
CONTRACT CLOSE-OUT

1701 CLOSE-OUT PROCEDURES

Submit written notice that Contract Documents have been reviewed and work has been completed in accordance to the Plans and Contract Documents and ready for Engineer's inspection. Final application for Payment must identify the total adjusted Contract Price, previous payments, and remaining sum due.

Inspections shall be requested by the Contractor to the Engineering Office and performed by the appropriate utility division or Street Department.

All punch-list items including site cleanup, drainage system cleaning, pavement sweeping, landscaping, and removal of all waste materials and construction equipment must be complete prior to final engineering approval and final payment.

1702 RECORD DOCUMENTS

The Contractor shall provide as-built plans to the City of St. Charles in accordance with the requirements of the contract special provision contained herein for "Construction Layout and As-Built Survey".

END OF SECTION

SPECIAL PROVISIONS

**CITY OF ST. CHARLES
WOODS OF FOX GLEN CREEK STABILIZATION**

INDEX TO SPECIAL PROVISIONS

SP-1	DESCRIPTION OF PROJECT:.....	3
SP-2	CONTRACTOR EXPERIENCE:	3
SP-3	SITE INSPECTION, LOCATION OF EXISTING UTILITIES:.....	4
SP-4	COMPLETION DATE:	4
SP-5	PERMIT COMPLIANCE:	5
SP-6	CONTROL OF MATERIALS:.....	5
SP-7	RESPONSIBILITY OF WORK:	5
SP-8	WORK AREA:.....	5
SP-9	WATER FOR CONSTRUCTION PURPOSES:.....	5
SP-10	CLEANING ALL STRUCTURES AND STAGING AREAS:.....	6
SP-11	CLEAN CONSTRUCTION AND DEMOLITION DEBRIS (CCDD):.....	6
SP-12	DISPOSAL OF DEBRIS AND EXCAVATED MATERIAL:	6
SP-13	DUST CONTROL AND DIRT ON PAVEMENT:.....	6
SP-14	PUBLIC SAFETY AND CONVENIENCE:	7
SP-15	GUARANTEE:	7
SP-16	PRE-CONSTRUCTION MEETING:	7
SP-17	TRAFFIC CONTROL AND PROTECTION:	8
SP-18	CONSTRUCTION LAYOUT AND AS-BUILT SURVEY:.....	9
SP-19	MOBILIZATION:	12
SP-20	TEMPORARY CONSTRUCTION FENCE:	12
SP-21	REMOVE EXISTING CHAIN LINK FENCE:.....	13
SP-22	REPLACE CHAIN LINK FENCE, 4', SPECIAL:	13
SP-23	TEMPORARY CONSTRUCTION CHAIN LINK FENCE WITH GATE, 6': ..	13
SP-24	UTILITY LOCATIONS:.....	14
SP-25	STABILIZED CONSTRUCTION ENTRANCE:	15
SP-26	HAUL ROAD:.....	16
SP-27	SEDIMENT CONTROL, COIR LOG:	16
SP-28	EROSION CONTROL MAINTENANCE:	17
SP-29	TEMPORARY CONCRETE WASHOUT FACILITY:.....	17
SP-30	CLEARING:.....	19

SP-31 TREE REMOVAL:	19
SP-32 EARTH EXCAVATION, SPECIAL:.....	20
SP-33 EARTH EXCAVATION AND HAUL OFF:.....	21
SP-34 TEMPORARY STOCKPILE SITES:.....	21
SP-35 SITE DEWATERING:	21
SP-36 TEMPORARY ROCK CHECK DAM (CLASS A5):	23
SP-37 CURB AND GUTTER REMOVAL AND REPLACEMENT:.....	23
SP-38 SIDEWALK REMOVAL AND REPLACEMENT, 5":.....	24
SP-39 CART PATH REMOVAL AND REPLACEMENT:.....	24
SP-40 STONE RIPRAP, CLASS A5 SPECIAL and CLASS A7 SPECIAL:.....	24
SP-41 GABION WALL, 9' HIGH:	25
SP-42 GABION BASKET (3' x 4.5'):.....	26
SP-43 AGGREGATE SOIL MIXTURE:.....	26
SP-44 TOPSOIL FURNISH AND PLACE, 6", SPECIAL:	27
SP-45 EROSION CONTROL BLANKET:.....	27
SP-46 HEAVY DUTY EROSION CONTROL BLANKET:.....	28
SP-47 SEEDING:	29
SP-48 PERENNIAL PLANTING:	33
SP-49 TREE PLANTING:.....	35
SP-50 LANDSCAPE MAINTENANCE:.....	37

**CITY OF ST. CHARLES
WOODS OF FOX GLEN CREEK STABILIZATION**

SPECIAL PROVISIONS

The following Special Provisions supplement the "Standard Specifications for Road and Bridge Construction", adopted January 1, 2012, the latest edition of the "Illinois Manual on Uniform Traffic Control Devices for Streets and Highways" in effect on the date of invitation for bids, and the "Supplemental Specifications and Recurring Special Provisions", latest edition", the "Illinois Urban Manual", latest edition, the "Standard Specifications for Water & Sewer Main Construction in Illinois", latest edition and the City of St. Charles ordinances and specifications which apply to and govern the construction of the "Woods of Fox Glen Creek Stabilization", in St. Charles, Illinois. In case of conflict with any part or parts of said specifications, the said Special Provisions shall take precedence and shall govern.

SP-1 DESCRIPTION OF PROJECT:

The project consists of stabilizing approximately 600 feet of Fox Glen Creek extending from Fox Glen Drive south to a pond at the St. Charles Country Club property. Fox Glen Creek exhibits heavily eroded stream banks within the project limits. The project will include widening and filling the channel to handle proposed stormwater runoff, installing stabilization measures along the bottom and banks of the stream with stone riprap, installing a concrete weir with stepped grade control, installing an area of Gabion Baskets to protect residences in a small and heavily eroded portion of the stream, landscape plantings, site restoration and other appurtenant work for a complete improvement.

SP-2 CONTRACTOR EXPERIENCE:

The Contractor or his/her specialty subcontractor shall have been in business a minimum of five years, and shall be fully experienced in all aspects of the project described in SP-1. In particular, the Contractor must have past experience in installation of bank stabilization measures or similar work along and within waterways.

The Contractor shall submit a list of three (3) similar projects that the Contractor or his/her specialty subcontractor has completed, along with points of contact for these projects (refer to supplemental bid form for "Affidavit of Experience"). The submittal shall include the location, contract name, number, total value and completion dates for the projects. The submittal shall also include names, telephone numbers and fax numbers of a supervisory level point of contact at each facility or installation who has knowledge of the Contractor's or specialty subcontractor's work performance and project with value of subcontracting contract.

The City reserves the right to require the Contractor to file proof of his ability to finance and execute the project. This proof shall include, but not be limited to, a financial statement, list of equipment owned by bidder, backlog of jobs under a Contract only to a Bidder who furnishes satisfactory evidence that he has the ability, sufficient capital,

facilities, and plant to enable him to prosecute the work successfully and promptly, and to complete the work within the time specified in the Contract Documents.

SP-3 SITE INSPECTION, LOCATION OF EXISTING UTILITIES:

The successful bidder shall, before submitting a proposal for a specific work site or project, carefully examine the Proposal, Plans, Details, Specifications, and Special Provisions. The successful bidder shall inspect in detail the site of the proposed work and be familiar with all the local conditions affecting the proposal and the detailed requirements of construction including access and staging.

When existing structures, services, utilities, pipelines and improvements (both above and below ground) are shown on the plans, the locations shown are approximate only and are not guaranteed. Obstructions and improvements in addition to those shown on the plans may also be encountered in carrying out the work. The Contractor shall be responsible for carrying out all work under this contract without additional compensation for whatever condition is found above or below ground.

The Contractor shall notify all utility companies including the City of St. Charles Electrical Department, Water Department, Sewer, local electric companies, local telephone and communications companies, local natural gas companies, and local cable TV companies a minimum of two (2) working days (forty eight hours) prior to beginning any construction. The Contractor shall have the responsibility to determine from the public utility companies and the City of St. Charles Departments the locations of underground pipes, conduits, cables, or other surface or subsurface improvements adjoining or crossing the construction area.

The Joint Utility Locating Information for Excavators telephone number, 1-800-892-0123, is shown on the cover sheet of the plans. (J.U.L.I.E. SYSTEM)

SP-4 COMPLETION DATE:

The Contractor shall schedule their construction operations in such a manner so as to obtain Substantial Completion by December 1, 2015 and Final Completion by May 15, 2016.

Substantial Completion shall be defined as the construction / installation of all streambank and earth stabilization measures along and adjacent to the creek including all rip-rap, gabion baskets, concrete control weir and all restoration items and trees.

Final Completion shall be defined as the completion of all pay items except landscape maintenance tasks and the acceptance of all pay items by the City.

Special attention is called to the provisions for liquidated damages in the contract documents which shall be strictly adhered to in the event the Contractor fails to complete the project by the above-specified completion date.

SP-5 PERMIT COMPLIANCE:

The Contractor shall comply with the all requirements of the project permits from the Army Corps of Engineers, Illinois Environmental Protection Agency and Kane-DuPage Soil & Water Conservation District. Permit copies are included in the project bid documents.

SP-6 CONTROL OF MATERIALS:

All material used shall meet the requirements of the Illinois Department of Transportation and as outlined in these specifications.

All materials will be inspected, tested, and approved by the Engineer before incorporation into the work.

Any work in which untested and unacceptable materials are used without approval or written permission of the Engineer shall be performed at the Contractor's risk and may be considered as unacceptable and unauthorized and will not be paid for.

The Contractor shall provide the City with letters of certification from each supplier.

SP-7 RESPONSIBILITY OF WORK:

During the progress of the work, the Contractor shall assume total risk and liability, and will be responsible of any and all damages to the work, or to persons, or to public or private property caused by, or in any way resulting from doing the work, including actions of Subcontractors or Material Suppliers.

SP-8 WORK AREA:

The Contractor shall confine all work to the project limits shown on the plans. Any damage to areas outside of the project limits shall be repaired, replaced or restored by the Contractor to the satisfaction of the owner and the City of St. Charles at the Contractor's expense. No additional compensation will be allowed.

SP-9 WATER FOR CONSTRUCTION PURPOSES:

City water for construction purposes will be available to the Contractor at his cost. Temporary hydrant meters are available to the contractor upon making a formal application at the Finance Office and payment of an amount equal to the actual cost of meter, fittings, backflow prevention device and wrench.

Temporary hydrant meters shall be removed from hydrants daily. Under no circumstances shall unattended hydrant meters be installed on hydrants overnight. Hydrant meters shall be removed when unattended.

SP-10 CLEANING ALL STRUCTURES AND STAGING AREAS:

Before final acceptance, all structures, construction easement areas and staging areas that were occupied by the Contractor in connection with this work shall be cleaned of all rubbish, excess materials, and other foreign materials deposited or accumulated on or in the structures and areas. The cleaning shall be performed in accordance with the plans and specifications or as directed by the Engineer and shall be at the Contractor's expense.

SP-11 CLEAN CONSTRUCTION AND DEMOLITION DEBRIS (CCDD):

The Contractor is to be aware and comply with CCDD requirements. The City of St Charles has included a signed IEPA form LPC-662 with the contract documents. The contractor shall be responsible for contacting and coordinating with licensed CCDD fill sites during the bid process to determine a suitable fill site that will accept the referenced IEPA form LPC-662 for the disposal of CCDD material from this site. The contractor shall provide the City of St. Charles with the name and address of one or more Illinois Environmental Protection Agency Licensed CCDD Fill Sites selected for this project with the submittal of his bid (refer to supplemental bid form for "CCDD Licensed Fill Site"). The contractor shall not dispose of material at any other licensed CCDD fill site without receiving written authorization from the City of St. Charles.

SP-12 DISPOSAL OF DEBRIS AND EXCAVATED MATERIAL:

The Contractor shall be responsible for removal and disposal of all waste material, asphalt, grindings, concrete, stone, dirt or debris generated in the course of the work to a facility permitted to accept such waste. The Contractor shall load the removed pieces of sidewalk, street pavements, etc. directly onto trucks, haul it away and dispose of it. The temporary storing of excavated materials on the site and/or street and re-handling them later for disposal will not be allowed.

This work shall not be paid for separately, but shall be considered incidental to the project.

SP-13 DUST CONTROL AND DIRT ON PAVEMENT:

The Contractor shall at all times be responsible for maintaining dust-free conditions. The Contractor shall clean the pavement of all dirt and debris **at the end of each day's operations**, and at other times as directed by the Engineer by means of high pressure washing or by mechanical sweeping. The Contractor shall provide for the control of dust by the uniform application of a dust control agent approved by the Engineer. If water is used for dust control, the Contractor shall maintain a water tank at the construction site at all times.

If the Contractor does not meet the requirement of controlling dust and/or cleaning the pavement, within three (3) hours of notification by the City, the City shall make the necessary arrangements to control the dust and clean the pavement(s). The cost of such action will be deducted from any monies due or to become due to the Contractor.

Additionally, the City will deduct \$1,000.00 per day from monies due, or to become due, for each day that the Contractor fails to comply with this special provision. Such sum to be charged not as a penalty but as liquidated damages. The parties agree that actual damages to the City of St. Charles would be uncertain and difficult to calculate, and the amount of such liquidated damages is a reasonable estimate of the supervision costs likely to be incurred by the City of St. Charles as a result of the Contractors failure to control dust and clean the pavement(s) as required.

Dust control and pavement cleaning shall be considered incidental to the cost of the contract and will not be paid for separately.

SP-14 PUBLIC SAFETY AND CONVENIENCE:

The Contractor shall maintain drives, entrances, and side roads along the proposed improvement to allow emergency and local vehicle access to all adjacent properties. Interference with traffic movements and inconvenience to abutting property owners and the public shall be kept to a minimum. The Contractor shall maintain at least one lane open to traffic at all times for emergency vehicles on all streets affected by the construction of these improvements. Adequate use of flaggers and other traffic control devices shall be used to permit such arrangements during working hours.

SP-15 GUARANTEE:

The Contractor shall guarantee all equipment and materials furnished and installed by him against defects in material and workmanship for a period of one (1) year from the date of formal project acceptance. Any repair or replacement of defective equipment or materials shall be promptly executed to the ENGINEER'S satisfaction at no cost to the owner.

The Contractor shall furnish a maintenance bond approved by the City in the amount equal to ten percent (10%) of the contract amount. This bond shall provide a guarantee against defective materials and workmanship in connection with said maintenance. The Principal agrees to make any and all repairs or replacements, which become necessary during the specified period of 12 months and commencing on the date of inspection and final approval of the work by the City of St. Charles. This item shall not be paid for separately, but shall be considered incidental to the project.

SP-16 PRE-CONSTRUCTION MEETING:

A pre-construction meeting shall be held prior to start of construction after execution of the contract documents. The Engineer shall establish the time and place of the pre-construction meeting. At this time, the Contractor shall be required to furnish and discuss the following:

- Written progress schedule.
- Names of Subcontractors and Material Suppliers.

- Names of Project Manager and or Field Supervisor, including the name and phone number of a responsible individual who can be reached 24 hours per day.
- General clean-up of the work site at the end of each day
- Name of person responsible for soil erosion and sediment control on the site, including name and phone number of responsible individual who can be reached 24 hours per day.
- Protection of existing pavement (Fox Glen Drive and the St. Charles Country Club cart path).
- Submittal of a Traffic Control Plan and Site Access/Staging Plan, prepared by the Contractor, to be approved by the City Engineer.
- A J.U.L.I.E meeting at the project site, scheduled by the Contractor, prior to commencement of any work.
- The Contractor shall coordinate with the Kane-DuPage Soil and Water Conservation District to attend the pre-construction meeting and to discuss the dewatering plan at the pre-construction meeting.
- All permits required for construction.
- Provide a shop drawing / catalog cut submittal log for the project.

Upon receipt of the notice of the award, the Contractor shall prepare a project schedule setting forth the hours and days of operation for each task required by the Contract. The project schedule shall be reviewed, and revised as required, and submitted with each payment request and/or request for extension of time.

SP-17 TRAFFIC CONTROL AND PROTECTION:

Traffic control shall be in accordance with the applicable sections of the *Standard Specifications for Road and Bridge Construction*, the *Recurring Special Provisions and Supplemental Specifications*, the *Illinois Manual on Uniform Traffic Control Devices for Streets and Highways* and any special details and Highway Standards contained herein and in the Traffic Specifications or Highway Specifications. Special attention is called to Article 107.09 of the Standard Specifications for Road and Bridge Construction.

The Contractor shall submit to the Project Coordinator, at the pre-construction meeting, a "Traffic Control" plan for approval by the Engineer. The Contractor shall adhere to the approved "Traffic Control Plan". Alterations or deviations from the Traffic Control Plan shall be approved in writing by the Engineer forty-eight (48) hours prior to their implementation.

Included and in addition to other items in the Contractor's Traffic Control Plan, the Contractor shall furnish the following traffic control items:

Access to the site will be by way of Fox Glen Drive. The Contractor shall install and maintain TRUCKS ENTERING AND LEAVING HIGHWAY [W21-1104-48] signs on Fox Glen Drive 500 feet in advance of the entrance to the site on both sides of the street.

All orange signs used shall be fluorescent orange in color. Deteriorated, damaged, or signs with non-original material on the front surface will not be allowed.

Prior to the start of work the Contractor shall have a sufficient number of barricades, signs, and flagmen at the jobsite for the scheduled work. If satisfactory traffic control as determined by the Engineer is not in place, the Engineer shall order the work to be halted. Traffic control devices shall not be removed without prior written notice and approval of the Engineer.

The Contractor shall obtain, erect, maintain, and remove all signs, barricades, flagmen and other traffic control devices as may be necessary for the purposes of regulating, warning or guiding traffic.

The Contractor shall provide a traffic control contact person with 24-hour telephone number to address any questions or issues regarding traffic control for the duration of the project.

The contractor shall provide coordination with the Woods of Fox Glen Homeowners Association as required for the project and as requested by the City of St. Charles.

This item shall not be paid for separately, but shall be considered incidental to the project.

SP-18 CONSTRUCTION LAYOUT AND AS-BUILT SURVEY:

Description of Work. This work shall consist of furnishing a construction survey crew and all necessary equipment, materials, tools, and expertise needed for construction surveying, layout, and preparation of As-Built Plans. The CONTRACTOR shall be required to furnish and place construction layout stakes for this project. The ENGINEER will provide adequate reference points and benchmarks as shown on the plans. Any additional control points set by the ENGINEER will be identified in the field to the CONTRACTOR and all field notes will be kept in the office and be the property of the ENGINEER.

The CONTRACTOR shall provide field forces, equipment and material to set all additional stakes for this project, which are needed to establish reference points and any other horizontal or vertical controls, including supplementary benchmarks, necessary to secure a correct layout of the work. Stakes for line shall be set at sufficient station intervals (not to exceed 50 feet) to assure substantial conformance to the plan lines. The CONTRACTOR will not be required to set additional stakes to locate a utility line which is not included as a pay item in the contract nor to determine property lines between private properties.

The CONTRACTOR shall be responsible for having the finished work substantially conform to the lines and dimensions called for in the plans. Any inspection or checking of the CONTRACTOR'S layout by the ENGINEER and the acceptance of all or any part

of it shall not relieve the CONTRACTOR of his/her responsibility to secure the proper dimensions. The CONTRACTOR shall exercise care in the preservation of stakes and benchmarks and shall have them reset at his/her expense when any are damaged, lost, displaced or removed or otherwise obliterated.

Responsibility of the ENGINEER:

- a. The ENGINEER will verify acceptability of the limits of construction. These limits shall be verified and agreed upon at the preconstruction meeting to be in conformance with the plans. Any vegetation outside of these limits shall be saved. Additional vegetation to be saved within the construction limits shall also be defined by the ENGINEER and OWNER at the preconstruction meeting.
- b. The ENGINEER will provide electronic files of the design plans in Microstation format to the CONTRACTOR for use in construction layout. The ENGINEER will accept responsibility for the accuracy of the initial control points as provided herein.
- c. Where the CONTRACTOR, in setting construction stakes, discovers discrepancies, the ENGINEER will check to determine their nature and make whatever revisions are necessary in the plans. Any additional re-staking required by the ENGINEER will be the responsibility of the CONTRACTOR. Any additional re-staking done by the CONTRACTOR will be considered incidental to this work and no extra compensation will be allowed.
- d. It is not the responsibility of the ENGINEER, except as provided herein, to check the correctness of the CONTRACTOR'S stakes.

Responsibility of the OWNER:

OWNER and/or ENGINEER may make periodic checks of the CONTRACTOR'S staking to determine if the Work is being done in substantial conformance with the plans. Any errors that are apparent will be immediately brought to CONTRACTOR'S attention. CONTRACTOR shall be required to make any necessary corrections or perform any necessary re-staking before the incorrect stakes are used for construction purposes.

Responsibility of the CONTRACTOR:

- a. CONTRACTOR shall be responsible for procuring the service of an Illinois registered land surveyor, who shall report to and receive instructions from CONTRACTOR, not the OWNER or ENGINEER. The registered land surveyor will also establish suitable benchmarks, to be used for horizontal and vertical control and tie into the Illinois State Plane Coordination System NAD 83 East Zone U.S. Survey Foot.
- b. The CONTRACTOR shall establish from the given survey points and benchmarks all the control points necessary to construct the individual project elements. The CONTRACTOR shall provide the ENGINEER adequate control in close proximity to each individual element to allow adequate checking of construction operations.

- c. The CONTRACTOR shall establish the overall construction limits prior to CONTRACTOR'S mobilization of equipment.
- d. All work shall be in accordance with normally accepted self-checking surveying practices. Field notes shall be kept in standard survey field notebooks and those books shall become the property of the OWNER at the completion of the project. All notes shall be neat, orderly and in an acceptable form.
- e. At the completion of construction the CONTRACTOR will be responsible to prepare as-built drawings in compliance with the requirements of the City of St. Charles, which are to be signed and sealed by a Professional Engineer registered in the State of Illinois. Additionally, these drawings shall be provided in electronic format for the ENGINEER and OWNER.

As-Built Survey Requirements

All survey work for the OWNER shall meet the following standards.

- The completed work must be submitted in both hard copy and digital format, which includes, two original 24" x 36" reproducible bond copies, one 24" x 36" mylar copy and an electronic drawing file format, (Microstation) and PDF.
- The file must have X,Y and Z coordinates attached to all points and contours and shall be tied into the Illinois State Plane Coordinate System East Zone and vertical datum NAVD 88 U.S. Survey Foot. If data is not acceptable to OWNER and/or ENGINEER, meaning, not meeting the following specifications, OWNER and ENGINEER reserve the right to return data to CONTRACTOR until it is corrected to meet the following specifications with no further compensation due CONTRACTOR.

The drawing shall meet the following specifications (as required per contract):

- Drawings shall note all dimensions and elevations in imperial (foot) scale to the nearest .01 foot.
- Include legend of symbology and abbreviations used in drawing.
- Show the location and elevations of existing and newly constructed improvements per construction project specifications. Items to be included but not necessarily limited to; vegetation, one foot contours, channel cross sections at the same stations shown on the plans, high points, low points, swales, utilities, manhole rims & pipe invert elevations, culvert inverts, pavement delineation and type, and top and bottom of gabion walls and weir wall.
- Capture mean elevation of water in any excavation, well and or nearby body of water.
- Do not break contour lines for elevation text nor shall text interfere with any mapping lines (do not trim to accommodate text).

- All contour lines should be continuous/closed polylines with respective "Z" coordinates.
- Spot elevations should have "Z" elevations and represented to the nearest .01 foot.
- All text associated with a spot elevation should match that elevation and be on a separate text layer.
- All paper and Mylar copies of survey shall be signed and sealed by a professional land surveyor.

Method of Measurement. This item of work shall not be measured. It is a lump sum item.

Basis of Payment. This work shall include all labor, materials, transportation, and incidentals necessary to furnish, install, maintain, replace, and relocate all control and stationing points for the duration of the project, as well as the preparation of As-Built Drawings. This work will be paid for at the contract lump sum price for CONSTRUCTION LAYOUT AND AS-BUILT SURVEY.

SP-19 MOBILIZATION:

Description of Work. This work shall be in accordance with applicable portions of Section 671 of the Standard Specifications for Road and Bridge Construction, except as modified herein and in the plans. This work shall consist of preparatory work and operations necessary for the movement of personnel, equipment, supplies, and incidentals to the project site for the establishment of temporary facilities necessary for work on the project and for all other work or operations which must be performed or costs incurred when beginning work on the project.

Method of Measurement. This item of work shall not be measured. It is a lump sum item.

Basis of Payment. This work will be paid for at the contract lump sum price for MOBILIZATION and per Section 671.02 of the Standard Specifications for Road and Bridge Construction.

SP-20 TEMPORARY CONSTRUCTION FENCE:

Description of Work. This work shall include all labor and materials necessary to install, maintain, replace, and remove temporary construction fencing to limit access to the work site after the beginning of construction. Construction fencing will be provided at the locations designated on the plans or as indicated by the ENGINEER. The temporary construction fencing shall be in accordance with the applicable portions of Article 201.05(a) of the Standard Specifications. The fence shall be made of high-visibility orange snow fencing with a minimum height of five feet and shall be

secured in place with posts at a maximum spacing of seven feet. A shop drawing shall be provided to the City of St. Charles for approval.

The CONTRACTOR shall be responsible for removing the Construction Fencing upon completion of the project.

Method of Measurement. This item shall be measured in place in lineal feet.

Basis of Payment. This work shall be paid for at the contract unit price in lineal feet for TEMPORARY CONSTRUCTION FENCE. The price shall include all necessary labor, materials, and equipment necessary to install the fence as described herein and as shown on the plans.

SP-21 REMOVE EXISTING CHAIN LINK FENCE:

This item of work shall consist of removing the existing four foot high chain link fence and fence posts at the construction entrance area as shown on the plans to accommodate the installation of the proposed CHAIN LINK FENCE WITH GATE, 6'. The fence and fence posts shall be disposed of off-site at the contractor's expense.

Basis of Payment. This work shall be paid for at the contract unit price in lineal feet for REMOVE EXISTING CHAIN LINK FENCE. The price shall include all necessary labor, materials, and equipment necessary to remove and dispose of the fence as described herein and as shown on the plans.

SP-22 REPLACE CHAIN LINK FENCE, 4', SPECIAL:

This item of work shall consist of the replacement the existing four foot high chain link fence and fence posts at the construction entrance area as shown on the plans to accommodate the removal after construction of the proposed CHAIN LINK FENCE WITH GATE, 6'.

The fence shall be 4' high chain link fence painted green to match the color of the existing adjacent 4' high chain link fence. The fence posts shall be steel fence posts of the same type as the existing adjacent steel fence posts and shall be painted green with white top to match the existing adjacent steel fence posts. Fence posts shall be installed in concrete and shall be installed at the same spacing as the adjacent steel chain link fence posts.

Basis of Payment. This work shall be paid for at the contract unit price in lineal feet for REPLACE CHAIN LINK FENCE, 4', SPECIAL. The price shall include all necessary labor, materials, and equipment necessary to provide and install the fence as described herein and as shown on the plans.

SP-23 TEMPORARY CONSTRUCTION CHAIN LINK FENCE WITH GATE, 6':

This item of work shall consist of providing, constructing and maintaining a temporary chain link construction fence to protect the construction entrance area as shown on the plans and as directed by the City of St. Charles. The work shall be performed in accordance with Section 664 of the Standard Specifications and with the detail in the plans. The fence shall be made of 6 foot tall chain link fence and shall be secured in place with posts at a maximum spacing of seven feet. The chain link fence shall include a locking vehicle gate. The items of work shall include the removal of the fence from the site after construction is completed.

The Contractor shall provide a shop drawing of the fence and gate to the City of St. Charles for review and approval prior to installation.

This work shall be paid for at the contract unit price per lineal foot for CHAIN LINK FENCE WITH GATE, 6' and REMOVE CHAIN LINK FENCE WITH GATE, 6'. The length of the fence and gate shall be included in the lineal foot measurement for payment purposes.

SP-24 UTILITY LOCATIONS:

The Contractor must exercise extreme caution while working around existing utilities. The Contractor shall notify JULIE (1-800-892-0123) and the City of St. Charles Electrical Department, a minimum of 48 hours before commencing construction for utility locations within the scope of the project. It is recommended that the Contractor conduct a joint utility meet. It is the responsibility of the Contractor to contact agencies who may or may not be part of the JULIE system to obtain the horizontal and vertical field locations of their facilities within the limits of the proposed improvements.

The City of St Charles does not guarantee the accuracy or completeness of this information. The Contractor shall make his own investigation to determine the existence, nature, and location of all utility lines and appurtenances within the limits of the improvement. The Contractor shall locate all utilities far enough in advance to avoid all conflicts in grade separation between the proposed improvements. If the Contractor encounters a conflict between the proposed improvements and existing utilities that was not located in advance by the Contractor, then the Contractor shall, at no cost to the City of St Charles, relocate the proposed improvements and/or the utility to avoid conflict.

The Contractor will be required to cooperate with all utility companies involved in connection with the removal, temporary relocation, reconstruction, or abandonment by these companies of any and all services or facilities owned or operated by them within the limits of this improvement.

Before doing any work which will damage, disturb or leave unsupported or unprotected any utility lines or appurtenances encountered, the Contractor shall notify the prospective Owner thereof, who will make arrangements for relocating, adjusting or otherwise maintaining or abandoning service on lines that fall within the limits of the proposed construction without cost to the Contractor, including the removal of all cables, manhole covers and other appurtenances which the Owner desires to salvage. After such arrangements have been made, the Contractor will proceed with the work as directed by the Engineer. All utility lines and appurtenances, which are abandoned by the Owner, shall be removed and disposed of by the Contractor.

The Contractor shall be responsible for facilitating prompt and timely removal, relocation, reconstruction, or abandonment of their facilities by all utility companies involved, and the coordination of his work with that of these companies to the end that work on this improvement is not delayed because of necessary changes in the existing utilities, public or private.

No extra compensation will be allowed to the Contractor for any expenses incurred by complying with these requirements or because delay, inconvenience or interruption in his work resulting from the failure of any utility company to remove, relocate, reconstruct, or abandon their services.

SP-25 STABILIZED CONSTRUCTION ENTRANCE:

This work shall consist of furnishing, installing, maintaining and removing a stabilized pad of aggregate underlain with filter fabric as shown on the plans or directed by the ENGINEER.

Materials shall conform to the following:

Aggregate size: IDOT Coarse Aggregate Graduation: CA-3 per Section 1004 of the Standard Specifications.

Filter Fabric shall consist of synthetic polymers composed of at least 85 percent by weight polypropylene, polyesters, polyamides, polyethylene, polyolefins, or polyvinylidene-chlorides. The geotextile shall be free of any chemical treatment or coating that significantly reduces its porosity. Fibers shall contain stabilizers and/or inhibitors to enhance resistance to ultraviolet lights. The cost of filter fabric shall be included in this item of work.

The course aggregate shall be a thickness of 6 inches or more. The stone entrance should not be filled until the area has been inspected and approved by the ENGINEER.

The rock shall be dumped and spread into place in approximately horizontal layers not more than 3 feet in thickness. It shall be placed in a manner to produce a reasonable homogeneous stable fill that contains no segregated pockets or larger or small fragments or large unfilled space caused by bridging of larger fragments. No compaction will be required beyond that resulting from the placing and spreading operations.

The minimum width and length shall be 12 and 40 feet, respectively.

All surface water flowing or diverted toward the construction entrance shall be piped across the entrance. Any pipe used for this will be considered incidental to the stabilized construction entrance.

The stabilized construction entrance shall be maintained in satisfactory condition at all times.

The stabilized construction entrance shall be removed upon the completion of construction.

The work shall be paid for at the contract lump sum price per each for INSTALLATION, MAINTENANCE and REMOVAL OF STABILIZED CONSTRUCTION ENTRANCE which price shall be payment in full for all material, installation, excavation, removal, disposal, labor, and any other items required to complete the work.

SP-26 HAUL ROAD:

This work shall consist of furnishing, installing, maintaining and removing a haul road of stabilized aggregate underlain with filter fabric at the location shown on the plans or as directed by the ENGINEER. The work shall be performed in accordance with the applicable portions of Sections 205, 282, 351 and 402 of the Standard Specifications.

The aggregate materials and constructed aggregate thickness shall be determined by the contractor.

Filter Fabric shall consist of synthetic polymers composed of at least 85 percent by weight polypropylene, polyesters, polyamides, polyethylene, polyolefins, or polyvinylidene-chlorides. The geotextile shall be free of any chemical treatment or coating that significantly reduces its porosity. Fibers shall contain stabilizers and/or inhibitors to enhance resistance to ultraviolet lights. The cost of filter fabric shall be included in this item of work.

The fill area embankment grading upon which the haul road will be constructed shall be constructed with on-site excavated material and shall be constructed prior to the placement of the haul road filter fabric and aggregate. The fill area embankment construction will be included in the pay item for EARTH EXCAVATION, SPECIAL. The haul road filter fabric and aggregate shall not be placed until the fill area embankment grading has been inspected and approved by the CITY of St. Charles.

The minimum width of the haul road aggregate driving surface shall be 10 feet as shown on the plans. The haul road shall be maintained in satisfactory condition at all times.

The haul road filter fabric and aggregate shall be removed upon the completion of construction. The resulting void shall be filled with compacted select excavated material and fine graded to an elevation ready to accept the proposed Topsoil Placement, 6" required for final restoration. Topsoil Placement, 6" will be paid for separately.

The work shall be paid for at the contract lump sum price per each for INSTALLATION, MAINTENANCE AND REMOVAL OF HAUL ROAD which price shall be payment in full for all material, installation, excavation, removal, disposal, labor, and any other items required to complete the work.

SP-27 SEDIMENT CONTROL, COIR LOG:

The installation of Coir Logs occurs as shown in the plan set. Coir Logs are tightly bound bundles of coconut fiber or similar material in lengths of 10 to 20 feet staked with 2" X 1" X 4' hardwood stakes driven no more than 5' apart, to a minimum depth of 2 feet secured with twine. Existing material is to be excavated prior to placement of logs, then back filled behind the log to match existing grade. Installation of the Coir Logs shall be

completed as shown in the detail in the plans. Coir log shall not be installed so that the bottoms of the logs are more than three inches below the normal water level. Installation shall not occur during times when the water level is above the level necessary to install the Coir Logs.

The work shall be measured for payment in place per a lineal foot of SEDIMENT CONTROL, COIR LOG installed. Excavation and backfill, stakes, maintenance and removal of the logs upon final stabilization will be included in the payment amount.

This work will be paid at the contract unit price per lineal foot of SEDIMENT CONTROL, COIR LOG.

SP-28 EROSION CONTROL MAINTENANCE:

The contractor shall properly maintain all erosion control items shown in the plans as required by the standard specifications and as directed by the City of St. Charles. This work shall not be paid for separately but shall be included in the cost of the individual erosion control items of work.

SP-29 TEMPORARY CONCRETE WASHOUT FACILITY:

TEMPORARY CONCRETE WASHOUT FACILITY is used to contain concrete liquids when the chutes of concrete trucks are rinsed out after delivery of concrete to the construction site. These washout facilities function to consolidate solids for disposal and prevent runoff liquids associated with concrete. Details of the construction of the non-portable facilities are included in the plans as "temporary concrete washout facilities". Failure to comply with appropriate washout location requirements will result in monetary deficiency deduction against the contractor.

GENERAL REQUIREMENTS:

- The contractor must submit a plan of his/her proposed temporary concrete washout facility to the resident engineer for his/her approval at least 10 days prior to the first concrete pour.
- Temporary concrete washout facilities are to be in place before any delivery of concrete to the construction site.
- Temporary concrete washout facilities are to be located at least 30 feet from storm drain inlets, open drainage facilities, or water bodies. Each facility is to be located away from construction traffic or access areas to prevent disturbance or tracking.
- A sign is to be installed adjacent to each temporary concrete washout facility to inform concrete equipment operators of the designated washout facility.

DESIGN:

1. Two types of temporary concrete washouts are available for use on IDOT construction projects with details provided in the plans:
 - a. Prefabricated Portable Facilities
 - i. Various products are now being marketed specifically for this purpose. Product must be water tight.

b. Non-Portable Facilities – see details

i. Above Grade

1. Constructed using a barrier wall and polyethylene sheeting.
2. Barrier walls are constructed to create a berm, then lined with a single sheet of 30-mil. Polyethylene sheeting, which is free of holes, tears, or other defects which may compromise the impermeability of the material. Sandbags are used to hold the sheeting in place on top of the berm.
3. Sheeting must extend over entire basin and berm to prevent escape of discharge.

ii. Below Grade

1. Constructed via excavation and the use of polyethylene sheeting and sandbags.
2. A pit is first excavated in a designated location and then lined with a single sheet of 30-mil polyethylene sheeting which is free of holes, tears, or other defects, which may compromise the impermeability of the material.
3. Sandbags are then to hold the sheeting in place.

SIZE OF WASHOUTS:

- The number and size of each washout facility is to be determined by the contractor. It is his/her responsibility to provide enough storage for the excess concrete and water produced on the target.
- Non-portable facilities are to have a minimum length and width of 10' and minimum depth of 3'.

INSPECTION/MAINTENANCE/REMOVAL:

- Temporary concrete washout facilities are to be inspected by the resident engineer during his/her weekly erosion and sediment control inspection, after a storm event of ½" or greater and at the end of any day when concrete has been poured on the construction site. The inspector is to ensure that there are no leaks, no spills, and that the facilities' capacity has not yet been compromised.
- Any overflowing of the washout facilities onto the ground must be cleaned up and removed within 24 hours of discovery.
- If a rain or snow event is forecasted, a non-collapsing, non-water collecting cover shall be placed over the washout facility and secured to prevent accumulation and overflow of precipitation.
- Contents of each concrete washout facility are not to exceed 75% of its designed capacity. If the contents reach 75% capacity, discontinue pouring concrete into the facility until it has been cleaned out.
- Allow slurry to evaporate or remove from the site in a safe manner (i.e., vacuum truck). All hardened material can then be removed and disposed of properly.
- Slurry shall not be discharged into streams or wetlands.
- If a lined basin is used, immediately replace the liner if it becomes damaged.
- Remove temporary concrete washout facilities when they are no longer needed and restore the disturbed areas to their original condition.
- Note the locations of temporary concrete washout facilities and any changes to these facilities on the SWPPP.

The work shall be paid for at the contract unit price each for TEMPORARY CONCRETE WASHOUT FACILITY, which price shall be payment in full for all material, labor, excavation, inspection, and maintenance of the facility.

SP-30 CLEARING:

Description of Work. This work shall be performed in accordance with the applicable portions of Section 201 of the Standard Specifications for Road and Bridge Construction, except as modified herein or in the plans. Clearing shall consist of the removal and disposal of all obstructions to the project, including natural vegetation inclusive of shrubs, stumps and trees and all non-natural obstructions to the work such as fences, walls, foundations, accumulations of rubbish of whatever nature and other existing structures, the removal of which is not otherwise provided for in Section 501 of the Standard Specifications for Road and Bridge Construction. The clearing of all logs, shrubs, bushes, trees, saplings, grass, weeds, other vegetation, and stumps from trees less than 6 inches in diameter are also included in this work.

Method of Measurement. Clearing will be measured by acre for areas shown on the plans or as approved by the ENGINEER. The construction limit area shown on the plans or directed by the ENGINEER will be used in computing the area of clearing.

Basis of Payment. This work shall include all labor, equipment and incidentals necessary to complete the work described above and shall be paid for at the contract unit price of acre for CLEARING.

SP-31 TREE REMOVAL:

Description of Work. This work shall be performed in accordance with the applicable portions of Section 201 of the Standard Specifications for Road and Bridge Construction, except as modified herein or in the plans. Tree Removal shall consist of the cutting, grubbing, removal, and disposal of trees and stumps. Prior to beginning tree removal, all requirements of Article 201.05(a) shall be completed. All trees, except those designated to be saved, and all stumps, shall be cut and disposed of according to Article 202.03. Trees and stumps within the slope limits of embankments 2 ft (600 mm) or more in depth shall be cut off at ground level. All other trees and stumps within the limits of construction shall be removed to a depth of not less than 12 in. (300 mm) below the elevation of the subgrade, the finished earth surface, or the ground line. Trees of Osage Orange shall not be cut off as specified above, but shall be pulled or grubbed in such a manner as to insure complete removal.

Method of Measurement. Trees to be removed will be measured per unit of diameter where one unit is equal to 1 in. The diameter will be measured at a point 4.5 ft above the highest ground level at the base of the tree and will be determined by dividing the measured circumference of the tree by 3.1416. Stumps will be

measured at the elevation of cut off. A multiple stem tree's branches having a diameter of 6 in. or more at a point 4.5 ft above the highest ground level at the base of the tree will be measured for payment as individual trees. The accumulated total number of units will be the pay quantity.

Basis of Payment. This work shall include all labor, equipment and incidentals necessary to complete the work described above and shall be paid for at the contract unit price per unit diameter for TREE REMOVAL (6 to 15 UNITS DIAMETER) or TREE REMOVAL (OVER 15 UNITS DIAMETER).

SP-32 EARTH EXCAVATION, SPECIAL:

This item shall be completed in accordance with the applicable portions of Sections 202 and 205 of the Standard Specifications with the following general additions. This work shall include removal of all earth material shown on the cross sections or as directed by the Engineer. EARTH EXCAVATION, SPECIAL will include the excavation of topsoil and will include embankment construction with the excavated material as shown on the plans or as directed by the City of St. Charles.

Excavated topsoil shall be salvaged for use in TOPSOIL FURNISH AND PLACE, 6", SPECIAL as directed by the City of St. Charles. Topsoil shall not be removed from the site without the permission of the City of St. Charles.

For this project, it is the intention of this specification to pay for the handling of earthwork material only once, regardless of staging or Contractor's operations.

The Contractor shall be responsible for his earthwork operations for excavating and stockpile excavated materials for re-handling at a later date. This applies to all excavated material to be used in embankments, shoulders or as topsoil re-spread.

Temporary earth stockpiles will be allowed on the project site. However, they will only be allowed with the prior approval of the Resident Engineer. The contractor will provide the Resident Engineer with a written request for permission to place temporary earth stockpiles. This work will be considered part of the contract. As such, if the Contractor chooses to utilize temporary stockpile the project will not be considered for Final Completion until all stockpiles are removed and all disturbed areas are restored to at least to their original condition.

An earth excavation table is included in the plans for reference only. The Contractor is responsible for calculating all earth excavation quantities necessary for bid preparation. A shrinkage factor was not used in the earthwork table contained in the plans for this project.

Overhaul will not be paid for separately but shall be included in the lump sum price for EARTH EXCAVATION, SPECIAL.

This work shall be paid for at the contract lump sum price for "EARTH EXCAVATION, SPECIAL.

SP-33 EARTH EXCAVATION AND HAUL OFF:

This item shall be completed in accordance with the special provision contained herein for "EARTH EXCAVATION, SPECIAL" and shall also include the disposal offsite of excess excavated material. The provisions of the enclosed special provision for CLEAN CONSTRUCTION AND DEMOLITION DEBRIS (CCDD) shall also apply to this item of work.

Excavated topsoil shall be salvaged for use in TOPSOIL FURNISH AND PLACE, 6", SPECIAL as directed by the City of St. Charles. Topsoil shall not be removed from the site without the permission of the City of St. Charles.

Excavated material shall not be removed from the site until all fill areas and embankments are constructed as shown in the plans unless approved by the City of St. Charles.

An earth excavation table is included in the plans for reference only. The Contractor is responsible for calculating all earth excavation quantities necessary for bid preparation. A shrinkage factor was not used in the earthwork table contained in the plans for this project.

Basis of Payment. This work shall include all labor, equipment and incidentals necessary to complete the work described above and shall be paid for at the contract lump sum price for EARTH EXCAVATION AND HAUL OFF.

SP-34 TEMPORARY STOCKPILE SITES:

Description of Work. If CONTRACTOR determines temporary stockpile space is necessary; stockpiling shall be located within the construction limits shown on the plans. For alternative locations the CONTRACTOR must obtain approval for the proposed location of the temporary stockpile from OWNER and/or ENGINEER. Any proposed stockpile locations shall be located outside of Special Management Areas (wetlands, floodplain, etc.). Stockpiles not actively being worked and to remain in place for 14 days or more shall be stabilized. Silt fence shall be placed around any temporary stockpile and shall be incidental to this item.

Method of Measurement. This item shall not be measured and is considered incidental to the project.

Basis of Payment: Payment for TEMPORARY STOCKPILE SITES shall be incidental to the contract price.

SP-35 SITE DEWATERING:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to install, maintain, and operate all necessary dewatering systems to remove water from the channel reach designated for installation of stone rip rap channel lining, weir wall and vegetated gabion walls to ensure that work can

be completed in the dry or in manageable conditions as approved by the City of St. Charles (CITY).

Prior to any in-stream work associated with the project, CONTRACTOR shall identify the proposed dewatering and/or diversion/isolation method to be used and obtain approval from Kane DuPage Soil and Water Conservation District, OWNER and/or ENGINEER prior to starting work. In-stream work shall take place only during low flow conditions unless otherwise allowed by the CITY and/or Kane DuPage Soil and Water Conservation District. Concentrated flow shall be isolated from the work area. Dewatering shall comply with all requirements contained in the Storm Water Pollution Prevention Plan (SWPPP) contained in the plans

The CONTRACTOR shall be responsible for the choice of the product(s) and equipment; for and subsequent removal of dewatering systems and their safety and conformity with local codes, regulations, and these Specifications, as well as "means and methods" for the Site Dewatering Work to be performed subject to the review of the CITY and Kane DuPage Soil and Water Conservation District. All products and "means and methods" selected shall be adequate for the intended use/application and within the construction limits represented on the plans. The CITY's review does not relieve the CONTRACTOR from compliance with the requirements of the Drawings, Specifications, and the requirements of this special provision.

The CONTRACTOR shall submit to the CITY for review a description of dewatering techniques and equipment to be used, together with detail drawings showing items such as, but not limited to type of pumps, pump size, lengths and sizes of discharge piping and points(s) of discharge including erosion control procedures. The approved site dewatering plan shall be added to the SWPPP prior to implementation. Changes to the site dewatering plan are to be approved by the ENGINEER and the Kane DuPage Soil and Water Conservation District. The CITY's review of dewatering techniques and equipment shall in no way be construed as creating any obligation on the part of CITY for same.

The CONTRACTOR shall select the pumps he/she desires to use and the rate at which the pumps discharge, but adequate protection at the pump discharge shall be provided by the CONTRACTOR, subject to review by the CITY. The CONTRACTOR shall ensure that downstream water quality and further erosion shall not be impaired.

Water pumped or drained from the work required for this Contract shall be disposed of in a safe and suitable manner without damage to adjacent property or streets or to other work under construction. Water shall not be discharged onto streets without adequate protection of the surface at the point of discharge. No water shall be discharged into sanitary sewers. No water containing settleable solids shall be discharged into storm sewers. Any and all damages caused by dewatering the work shall be promptly repaired by the CONTRACTOR. The CONTRACTOR will have up to 24-hours to modify system such that future damages and/or violations do not occur. Failure to comply with the above will result in a charge of \$500.00 per day after the initial 24-hour period. The CONTRACTOR is responsible for providing any and all

labor, materials and equipment needed for the dewatering in order to meet the scheduled completion of the project.

Method of Measurement. This item will be measured as Lump Sum for SITE DEWATERING. The CONTRACTOR will not be due additional compensation for delay, lost productivity, or for re-establishing and maintaining the dewatered condition in the event the capacity of the diversion system is exceeded. The payment under this item is for the duration of the contract, regardless of conditions encountered or multiple locations necessary to accomplish all work defined herein.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract lump sum price for SITE DEWATERING.

SP-36 TEMPORARY ROCK CHECK DAM (CLASS A5):

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to furnish, place and remove Temporary Rock Check Dams at the locations, lines and grades shown on the plans. This work shall be completed in accordance with Section 281 and Section 1005.01 of the Standard Specifications and with the detail in the plans. The cost of any required excavation and the filter fabric shall be included in this item of work. This item of work shall include the removal of the Rock Check Dam at the completion of construction as directed by the City of St. Charles.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per each for TEMPORARY ROCK CHECK DAM (CLASS A5).

SP-37 CURB AND GUTTER REMOVAL AND REPLACEMENT:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to remove and replace existing concrete curb and gutter as shown on the plans. The work shall be performed in accordance with the applicable portions of Sections 440 and 606 of the Standard Specifications, the details in the plans and the City of St. Charles Specifications. This work shall include sawcutting, pavement removal, pavement base replacement, surface placement and concrete protective coat.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per lineal foot for CURB AND GUTTER REMOVAL AND REPLACEMENT.

SP-38 SIDEWALK REMOVAL AND REPLACEMENT, 5”:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to remove and replace existing concrete sidewalk as shown on the plans. The work shall be performed in accordance with the applicable portions of Sections 440 and 424 of the Standard Specifications, the details in the plans and the City of St. Charles Specifications. This work includes all sawcutting and concrete protective coat.

For sidewalk removal and replacement outside the area of construction access, restoration of all areas disturbed shall be incidental to the cost of sidewalk removal and replacement and shall consist of placement of 6 inches of topsoil, Class 1A seeding and erosion blanket or mulch as approved by the City.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per square foot for SIDEWALK REMOVAL AND REPLACEMENT, 5”.

SP-39 CART PATH REMOVAL AND REPLACEMENT:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to remove and replace existing portions of the existing cart path as shown on the plans or as directed by the City of St. Charles. The work shall be performed in accordance with the applicable portions of Sections 202, 351, 406 and 440 of the Standard Specifications.

The work shall consist of sawcutting, the removal of the existing aggregate base course and hot-mix asphalt surface course and replacement with Aggregate Base Course, Type B, 8” and Hot-mix Asphalt Surface Course, Mix C, N50, 2”.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per square yard for CART PATH REMOVAL AND REPLACEMENT. However, any quantity greater than the contract quantity must be approved by the City of St. Charles prior to the use or removal. Payment will not be made for work performed without prior approval by the City.

SP-40 STONE RIPRAP, CLASS A5 SPECIAL and CLASS A7 SPECIAL:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to furnish and place Stone Riprap of the specified Class at the lines and grades as shown on the plans. This work shall be completed in accordance with Section 281 and Section 1005.01 of the Standard Specifications except as where noted herein or on the plans.

The contractor shall provide a sample of the stone riprap material to the City of St. Charles or shall arrange a quarry site visit with City of St. Charles representatives for approval of the proposed material prior to construction.

The bedding material shall IDOT gradation CA-1 limestone and is included in this work.

Method of Measurement. This work will be measured for payment in square yards. The cost of the riprap stone bedding material shall be included in this item of work. Filter fabric will be paid for separately.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per square yard for STONE RIPRAP, CLASS A5 SPECIAL and STONE RIPRAP, CLASS A7 SPECIAL.

SP-41 GABION WALL, 9' HIGH:

Description of Work. This work shall consist of furnishing, transporting, and placing a protective course of stone contained by galvanized wire baskets used as retaining walls. This work shall be in accordance with Sections 202, 203, and 284 of the Standard Specifications except as where noted herein or on the plans.

Gabions shall be constructed in accordance with Section 284 of the Standard Specifications, the manufacturer's requirements, and the details shown on the plans. Select backfill material and compaction shall be in accordance with the manufacturer's specifications. Gabion mesh shall be Zinc coated in accordance with the manufacturer's specifications. Gabions shall be placed on a uniform layer of 8-inches of CA-1 bedding material. Gabions shall be constructed to the lines and grades as shown in plans and details. A Stone Riprap, Stone Toe, Class A5 shall be constructed at the base of the gabion in accordance with the detail in the plans. Tie backs will be of the material recommended by the manufacturer of the gabion wall. The CONTRACTOR will follow the manufacturer's recommendations for installation.

The Contractor shall provide shop drawings and structural calculations for the gabion wall for review and approval by the City of St. Charles prior to any work being performed for the gabion wall. The shop drawings and calculations shall be signed and sealed by an Illinois Licensed Structural Engineer. The analyses of settlement, bearing capacity and overall slope stability shall be the responsibility of the Contractor and shall be included in the shop drawings and calculations.

Method of Measurement. This work will be measured for payment in place by length in lineal feet.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. All required excavation, backfilling, tie backs, filter fabric and items noted on the details provided on the plans shall be included in the unit price per lineal foot for GABION WALL, 9' HIGH.

The Stone Toe Riprap at the base of the wall will be paid for separately as STONE RIPRAP, CLASS A5, SPECIAL.

SP-42 GABION BASKET (3' x 4.5'):

Description of Work. This item shall be completed in accordance with the applicable portions of the detail and special provision contained herein for "GABION WALL, 9' HIGH" and shall relate to the gabion baskets proposed for installation on either side of the existing out headwall at station 10+00.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. All required excavation, backfilling, tie backs, filter fabric and items noted on the details provided on the plans shall be included in the unit price per each for GABION BASKET (3' x 4.5').

SP-43 AGGREGATE SOIL MIXTURE:

Description of Work. This work shall consist of furnishing all labor, tools, equipment, and materials to furnish and place aggregate soil mixture at the lines and grades as shown on the plans.

Material shall be angular aggregate 3-inch minus and 1.5-inch minus. The stone shall be reasonably free of laminations, seams, cracks, and other structural defects or imperfections tending to destroy its resistance to weather. Crushed or quarried stone shall be acceptable.

Large aggregate shall be gravel to 3-inch diameter stone with a D_{50} of 2-inch (similar to IDOT gradation CA-1). Small aggregate shall be gravel to 1.5-inch diameter stone with a D_{50} of 0.5-inch (similar to IDOT gradation CA-7). Topsoil shall conform to the Topsoil Furnish and Place special provision contained herein. Filter fabric shall be in accordance with Section 282 of the Standard Specifications and shall be included in the contract unit price per square yard for AGGREGATE SOIL MIXTURE AND FABRIC IN RIP RAP.

The CONTRACTOR shall submit to the ENGINEER for approval prior to use, a sample of the component materials and a sample of the aggregate soil mixture. The submittal shall include the location of all of the sources of material.

The CONTRACTOR shall prepare the aggregate soil mixture by mixing components on site just prior to placement. The mix ratio shall be 2 parts aggregate (1 part large aggregate; 1 part small aggregate) to 1 part topsoil. The soil and aggregate shall be mixed and placed in a dry condition. Temporary stockpiles must be kept dry prior to placement.

Method of Measurement. This work will be measured for payment in place in square yards of the thickness specified.

Basis of Payment. This work shall include all necessary labor, material, and equipment needed to perform the work described herein and as specified on the plans. This work shall be paid for at the contract unit price per square yard for AGGREGATE SOIL MIXTURE AND FABRIC IN RIP RAP or AGGREGATE SOIL MIXTURE IN GABION BASKETS.

SP-44 TOPSOIL FURNISH AND PLACE, 6", SPECIAL:

Description of Work. This work shall be in accordance with applicable portions of Section 211 of the Standard Specifications for Road and Bridge Construction, except as modified herein or on the plans. It shall include excavating, furnishing, stockpiling, and placing of topsoil in areas of seeding at locations shown on the plans or as designated by the ENGINEER and rolling the freshly placed topsoil as directed by the ENGINEER. The topsoil will be placed in such a manner that after normal settling the final grade of the soil will not be lower than the plan finished grade. The thickness of topsoil shall be at minimum 6-inches.

Topsoil excavated from the site under the pay item EARTH EXCAVATION, SPECIAL shall be salvaged for use in TOPSOIL FURNISH AND PLACE, 6", SPECIAL as directed by the City of St. Charles. Topsoil shall not be removed from the site without the permission of the City of St. Charles. Additional topsoil from off-site, if required, shall be furnished by the Contractor and shall be included in this item of work.

Basis of Payment. The price shall include all labor, equipment, materials and incidentals necessary to complete the work as described herein. This work shall be paid for at the contract unit price per square yard for TOPSOIL FURNISH AND PLACE, 6", SPECIAL.

SP-45 EROSION CONTROL BLANKET:

Description: This work will consist of furnishing, transporting and placing erosion control blanket over seeded areas with slopes less than or equal to 3:1 (H:V).

Materials: Erosion control blanket (North American Green S75BN or approved equal) will be a machine assembled blanket of 100% clean, weed free agriculture straw with a functional longevity of up to 12 months. The blanket will be of consistent thickness with the straw evenly distributed throughout the blanket. The blanket will be covered on the top with 100% biodegradable woven natural organic fiber netting. The netting will consist of machine directional strands formed from two intertwined yarns with cross directional strands interwoven through the twisted machine strands to form an approximate 0.50 x 1.0 inch mesh. The netting will be mechanically sewn to the mat at 1.50 inch centers with degradable thread.

The blanket will be supplied in a protected rolled mat form of 6.50 feet minimum width and the average dry weight will not be less than 0.50 pounds per square yard. The manufacturer will furnish a certification which each shipment, stating the number of rolls furnished and that the material complies with these requirements.

General Requirements: Within 24 hours of seed placement, erosion control blanket will be placed on the areas specified. Prior to placing the blanket, the areas to be covered will be relatively free of rocks or clods over 1-1/2 inches in diameter, and sticks or other foreign material which will prevent the close contact of the blanket with the seed will be removed. If, as a result of rain, the prepared seed bed becomes crusted or eroded, or if eroded places, ruts or depressions exist for any reason, the Contractor will rework the soil until it is smooth and reseed such areas which are reworked.

After the areas has been properly shaped, fertilized and seeded, the blanket will be laid out flat, evenly and smoothly without stretching the material. The blanket will be placed so that the netting is on the top and the fibers are in contact with the soil.

For placement in ditches, the blanket will be applied parallel to the centerline of the ditch so that there are no longitudinal seams within two (2) feet of the bottom centerline of the ditch. The blanket will be toed in on the upslope edge and overlapped with the flow. On slopes, the blanket will be applied perpendicular to the slope, toed in on the upslope edge, and overlapped with the flow. When placed adjacent to the roadway, the blanket will be toed in along the edge of shoulder.

Anchoring the blanket will be according to the manufacturer's specifications. Staples will be 100% biodegradable for use in cohesive, hardpan and rocky soil.

Basis of Payment: This work will be measured and paid at the contract unit price per square yard for EROSION CONTROL BLANKET and will include all labor, material and equipment necessary to perform the work described herein and as specified on the plans. Only the initial erosion blanket installation will be paid. Additional applications and blanket repair during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

SP-46 HEAVY DUTY EROSION CONTROL BLANKET:

Description: This work will consist of furnishing, transporting and placing heavy duty erosion control blanket over seeded areas with slopes greater than 3:1 (H:V).

Materials: Heavy duty erosion control blanket (North American Green SC150BN or approved equal) will be a machine-assembled blanket of 70% clean, weed free agriculture straw and 30% coconut fiber with a functional longevity of up to 18 months. The blanket will be of consistent thickness with the straw and coconut evenly distributed throughout the blanket. The blanket will be covered on the top and bottom sides with 100% biodegradable woven natural organic fiber netting. The netting will consist of machine directional strands formed from two intertwined yarns with cross directional strands interwoven through the twisted machine strands to form an approximate 0.50 x 1.0 inch mesh. The netting will be mechanically sewn to the mat at 1.50 inch centers with degradable thread.

The blanket will be supplied in a protected rolled mat form of 6.50 feet minimum width and the average dry weight will not be less than 0.50 pounds per square yard. The manufacturer will furnish a certification which each shipment, stating the number of rolls furnished and that the material complies with these requirements.

General Requirements: Heavy duty erosion control blanket will be placed on the areas specified the same day as seed placement. Prior to placing the blanket the areas to be covered will be relatively free of rocks or clods over 1-1/2 inches in diameter with the exception of the AGGREGATE SOIL MIXTURE. Sticks or other foreign material which will prevent the close contact of the blanket with the seed will be removed. If, as a result of rain, the prepared seed bed becomes crusted or eroded, or if eroded places, ruts or depressions exist for any reason, the Contractor will rework the soil until it is smooth and reseed such areas which are reworked.

After the areas has been properly shaped, fertilized and seeded, the blanket will be laid out flat, evenly and smoothly without stretching the material. The blanket will be placed so that the netting is in contact with the soil.

For placement in ditches, the blanket will be applied parallel to the centerline of the ditch so that there are no longitudinal seams within two (2) feet of the bottom centerline of the ditch. The blanket will be toed in on the upslope edge and overlapped with the flow. On slopes, the blanket will be applied perpendicular to the slope, toed in on the upslope edge, and overlapped with the flow.

Anchoring the blanket will be according to the manufacturer's specifications. Staples will be 100% biodegradable for use in cohesive, hardpan and rocky soil.

Basis of Payment: This work will be measured and paid at the contract unit price per square yard for HEAVY DUTY EROSION CONTROL BLANKET and will include all labor, material and equipment necessary to perform the work described herein and as specified on the plans. Only the initial erosion blanket installation will be paid. Additional applications and blanket repair during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

SP-47 SEEDING:

Description: This work will consist of preparing the seed bed and placing the seed and other materials required in seeding operations within disturbed areas of the project. Seed will be according to Section 1081.04 and seeding equipment will be according to Section 1101.08 of the Standard Specifications. All native species will be local genotype and will be from a radius not to exceed 100 miles from the site. Selective mowing stakes are not required. Seeds will be dormant seeded.

Seeding Mixtures: All seeding will occur prior to placement of mulch cover. The seed mix will be supplied in pounds of Pure Live Seed. Purity and germination tests no older than twelve months must be submitted for all seed supplied to verify quantities of bulk seed required to achieve the LB PLS specified. Horticultural grade

vermiculite will be added at a rate of one bushel per acre to facilitate the equal spreading of the seeds over an entire acre.

Seeding, Temporary Cover (Class 7):

LBS. / ACRE	COMMON NAME
50.000	PERENNIAL RYEGRASS
64.000	OATS, SPRING
114.000	TOTAL WEIGHT OF SEEDS (LBS)

Seeding, Salt Tolerant Lawn (Class 1A):

LBS. / ACRE	COMMON NAME
60.000	BLUEGRASS
20.000	PERENNIAL RYEGRASS
20.000	RED FESCUE (AUDUBON, SEA LINK OR EPIC)
20.000	HARD FESCUE (RESCUE 911, SPARTAN II OR RELIANT IV)
60.000	FULTS SALT GRASS OR SALTY ALKALIGRASS
180.000	TOTAL WEIGHT OF SEEDS (LBS)

Seeding, Shaded Dry Slope (Class 4 & 5):

LBS. / ACRE	SCIENTIFIC NAME	COMMON NAME
0.250	<i>AGROSTIS PERENNANS</i>	UPLAND BENT GRASS
1.000	<i>ANDROPOGON SCOPARIUS</i>	LITTLE BLUESTEM
0.250	<i>ASTER DRUMMONDII</i>	DRUMMOND'S ASTER
0.250	<i>ASTER SAGITTIFOLIUS</i>	ARROW-LEAVED ASTER
0.125	<i>ATHYRIUM FILIX-FEMINA</i>	LADY FERN
2.000	<i>BOUTELOUA CURTIPENDULA</i>	SIDE OATS
0.250	<i>BROMUS LATIGLUMIS</i>	EAR-LEAFED BROME
0.250	<i>BROMUS PUBESCENS</i>	WOODLAND BROME
0.250	<i>CAREX BLANDA</i>	COMMON WOOD SEDGE
0.250	<i>CAREX PENNSYLVANICA</i>	COMMON OAK SEDGE
0.125	<i>ECHINACEA PURPUREA</i>	PURPLE CONEFLOWER
2.000	<i>ELYMUS CANADENSIS</i>	CANADA WILD RYE
1.000	<i>ELYMUS VILLOSUS</i>	SILKY WILD RYE
4.000	<i>ELYMUS VIRGINICUS</i>	VIRGINIA WILD RYE
0.125	<i>FESTUCA OBTUSA</i>	NODDING FESCUE
1.000	<i>GLYCERIA STRIATA</i>	FOWL MANNA GRASS
0.250	<i>HYSTRIX PATULA</i>	BOTTLEBRUSH GRASS
0.125	<i>LEERSIA VIRGINICA</i>	WHITE GRASS
0.125	<i>PENSTEMON DIGITALIS</i>	FOXGLOVE BEARDTONGUE
0.125	<i>POLYGONATUM CANALICULATUM</i>	SMOOTH SOLOMONS'S SEAL
0.125	<i>RATIBIDA PINNATA</i>	YELLOW CONEFLOWER
0.125	<i>SOLIDAGO ULMIFOLIA</i>	ELM-LEAVED GOLDENROD

14.000	TOTAL WEIGHT OF SEEDS (LBS)
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COVER CROP:		
5.000	<i>LOLIUM MULTIFLORUM</i>	ANNUAL RYE (SPRING)
10.000	<i>LOLIUM MULTIFLORUM</i>	ANNUAL RYE (FALL)
20.000	<i>AVENA SATIVA</i>	OATS

Seeding, Shaded Streambank (Class 4 & 5):

LBS. / ACRE	SCIENTIFIC NAME	COMMON NAME
1.000	<i>BROMUS LATIGLUMIS</i>	EAR LEAVED BROME
2.000	<i>ELYMUS CANADENSIS</i>	CANADA WILD RYE
2.000	<i>ELYMUS RIPARIUS</i>	RIVERBANK RYE
2.000	<i>ELYMUS VILLOSUS</i>	SILKY WILD RYE
3.000	<i>ELYMUS VIRGINICUS</i>	VIRGINIA WILD RYE
1.000	<i>GLYCERIA STRIATA</i>	FOWL MANNA GRASS
1.000	<i>POA PALUSTRIS</i>	MARSH BLUE GRASS
12.000	TOTAL WEIGHT OF SEEDS (LBS)	

COVER CROP:		
5.000	<i>AGROSTIS ALBA</i>	RED TOP GRASS
20.000	<i>AVENA SATIVA</i>	OATS

While it is the intent of planting the specified seed mixtures, minor variation in the seed quantities or species may be allowed in the event of unavailability or other unforeseen conditions. The Contractor will provide for the approval of the City, a written description of the changed seed mixture, the reasons for the change, and the name of the seed supplier prior to performing seeding activities.

Seeding Time: Shaded Streambank and Shaded Dry Slope (Class 4 & 5), spring seeding will be May 15th to June 30th and fall seeding will be October 15th to December 1st. When seeding during the fall, Winter Wheat (*Triticum aestivum*) will be used at a rate of 10.000 pounds per acre in place of Oats (*Avena sativa*) as a cover crop and increase the rate to 15.000 pounds per acre for Annual ryegrass (*Lolium multiflorum*) and Redtop (*Agrostis alba*). Salt Tolerant Lawn (Class 1A), spring seeding will be April 1st to June 15th and fall seeding will be August 1st to November 1st. Seeding outside of the specified seasonal dates will require prior written approval from the City.

Fertilizer Application: Fertilizers are not required for areas seeded with Class 4 and 5 mixtures. Areas of Class 1A will have fertilizer nutrients uniformly spread over the designated areas immediately prior to seed bed preparation for bare earth areas. In areas of existing turf, fertilizer will be uniformly spread over the designate areas during the spring, late summer or early fall seasons. The Contractor will restore any existing turf areas damaged by improper application of fertilizer nutrients. Fertilizer

will be applied at a 1:1:1 ratio for a total of 270 pounds of fertilizer nutrients per acre as follows.

Nitrogen Fertilizer Nutrients	90 LB/ACRE
Phosphorus Fertilizer Nutrients	90 LB/ACRE
Potassium Fertilizer Nutrients	90 LB/ACRE

Seeding Methods: No seed will be sown during high winds or when the ground is not in a proper condition for seeding, nor will any seed be sown until the purity test has been completed for the seeds to be used, and tests show that the seed meets the noxious weed seed requirements. Prior to starting work, seeders will be calibrated and adjusted to sow seeds at the required seeding rate. Equipment will be calibrated in a manner to ensure complete coverage of the entire area to be seeded. When seed is applied with a hydraulic seeder, the rate of application will be not less than 1,000 gallons of slurry per acre. This slurry will contain the proper quantity of seed specified per acre.

For bare earth seeding, the area to be seeded will be worked to a minimum of 6 inches with a disk tiller, reducing all soil particles to a size not larger than 2 inches in the largest dimension. The prepared surface will be relatively free from weeds, clods, stones, roots, sticks, rivulets, gullies, crusting and caking. Seed bed preparation will not be required for Temporary Cover (Class 7) seeding if the soil is in a loose condition. Light disking will be done if the soil is hard or caked.

For interseeding areas of existing vegetation, the area to be seeded will be mowed prior to seeding. Areas to be seeded with Class 4 & 5 will be mowed one or more times to achieve a height not more than 6 inches. Areas of Class 1A will be mowed to a height not to exceed 3 inches. Mowing activities will follow the Special Provision for CONSERVATION MOWING.

All seed mixtures will be seeded using a rangeland type grass drill, except the following.

- (1) Class 1A will be sown with a machine that mechanically places the seed in direct contact with the soil, packs and covers the seed in one continuous operation for bare earth seeding. Only when directed by the City will Class 1A will be sown with a slit seeder for interseeding an area of exiting vegetation.
- (2) Broadcasting or hydraulic seeding will be allowed on steep slopes (1:3 (V:H) or steeper) or in inaccessible areas where use of the equipment specified is physically impossible. When interseeding an area of existing vegetation, sufficient water will be applied to these areas to wash the seed down to the soil. When broadcast seeders are used for seeding Class 4 & 5, individual species comprising the seeding mixture will be sown separately.

Period of Establishment and Plant Care: The Contractor shall guarantee survival of plant material installed for a period of one (1) year from the date of formal project acceptance. To be acceptable, the seeded areas shall exhibit 75% uniform cover

and the five most dominant plant species shall be native. Seeded areas that do not meet the requirements for acceptance will be interseeded or reseeded at no additional cost to the Owner. During the guarantee period, the Contractor will properly care for all seeded areas including weeding, watering, supplemental seeding and/or other work as necessary to maintain the health and satisfactory appearance of the seeded areas.

Basis of Payment: This work will be measured and paid for at the contract unit price per acre for SEEDING of the mixture specified for the total surface area seeded. Fertilizers will be considered included in the cost for SEEDING, CLASS 1A. Proper plant care and/or reseeding during the guarantee period will be considered included in the cost for SEEDING.

SP-48 PERENNIAL PLANTING:

Description: This work will consist of furnishing, transporting and planting perennial plants in AGGREGATE SOIL MIXTURE at locations within the streambank and gabion wall baskets. Mulch is not required. Mulch and selective mowing stakes are not required.

Materials: Perennial plants will meet the current standards adopted by the ANLA. Dormant root material (i.e. tubers, rhizomes) and/or bare root material will not be acceptable. Plant material will be local genotype from within a radius of 100 miles from the site. Plants shall exhibit root growth sufficient to hold all soil intact when removed from the container. Perennial plants shall be clearly labeled by variety. The Contractor will furnish the City a shipping ticket or label documenting the plants supplied are the variety specified herein.

Perennial Planting, Shaded Streambank (Wetland Type):

QUANTITY	SCIENTIFIC NAME	COMMON NAME
125.00	<i>AQUILEGIA CANADENSIS</i>	WILD COLUMBINE
125.00	<i>CAREX LUPULIFORMIS</i>	KNOBBED HOP SEDGE
125.00	<i>CAREX NORMALIS</i>	NORMAL SEDGE
125.00	<i>CAREX PROJECTA</i>	NECKLACE SEDGE
125.00	<i>CYPERUS SPP.</i>	FLAT SEDGE SPECIES
250.00	<i>JUNCUS SPP.</i>	RUSH SPECIES
125.00	<i>RUDBECKIA LACINATA</i>	WILD GOLDENGLow
1,000.00	TOTAL PLANTS (SPACING 12" O.C.)	

Perennial Planting, Gabion Wall:

QUANTITY	SCIENTIFIC NAME	COMMON NAME	TYPE	ZONE
10.00	<i>AQUILEGIA CANADENSIS</i>	WILD COLUMBINE	2-1/4" X 4" PLUG	1 & 2
40.00	<i>CAMPSIS RADICANS</i>	TUMPET CREEPER	PINT CONTAINER	1 & 2
60.00	<i>CAREX BLANDA</i>	COMMON WOOD SEDGE	2-1/4" X 4" PLUG	1 & 2
100.00	<i>CAREX PENNSYLVANICA</i>	COMMON OAK SEDGE	2-1/4" X 4" PLUG	1 & 2

10.00	<i>CELASTRUS SCANDENS</i>	CLIMBING BITTERSWEET	PINT CONTAINER	1 & 2
10.00	<i>CLEMATIS VIRGINIANA</i>	VIRGIN'S BOWER	PINT CONTAINER	1 & 2
20.00	<i>ELYMUS RIPARIUS</i>	RIVERBANK RYE	2-1/4" X 4" PLUG	1
40.00	<i>ELYMUS VILLOSUS</i>	SILKY WILD RYE	2-1/4" X 4" PLUG	1 & 2
60.00	<i>ELYMUS VIRGINICUS</i>	VIRGINIA WILD RYE	2-1/4" X 4" PLUG	1 & 2
20.00	<i>GLYCERIA STRIATA</i>	FOWL MANNA GRASS	2-1/4" X 4" PLUG	1
20.00	<i>HYSTRIX PATULA</i>	BOTTLEBRUSH GRASS	2-1/4" X 4" PLUG	2
40.00	<i>PARTHENOCISSUS QUINQUEFOLIA</i>	VIRGINIA CREEPER	PINT CONTAINER	1 & 2
20.00	<i>VINCA MINOR</i>	PERIWINKLE	PINT CONTAINER	2
450.00	TOTAL PLANTS (SPACING 10" O.C.)			

Species Substitution: The Contractor shall provide a written description of the changed species, the reasons for the change and the name of the plant supplier for approval by the Engineer and/or Owner prior to installation. The Engineer and/or Owner shall review any species substitutions and reserves the authority to deny use of any species or quantity if deemed inappropriate for the site conditions.

Planting Time: Planting times for woodland type perennial plants will be between April 1st and May 15th during the spring season.

Transportation & Storage: The City will inspect the plants at the work site at the beginning of each planting day and reject any material that is not properly packaged or that is not in a firm, moist, or viable condition. Any plants remaining at the end of the day will be properly stored by the Contractor to prevent drying out or freezing. Before planting, sufficient water will be added to the flats to ensure that the soil around the plugs is not dry and crumbly when the plants are removed from the containers.

Planting Procedure: The spacing of the perennial plants will be as shown herein, on the plans, or as directed by the City to uniformly fill the planting areas. Plants will be planted in AGGREGATE SOIL MIXTURE by an approved hand method, trowel or use of a planting bar (dibble bar). Backfill the planting hole by tamping or heeling, without causing injuring to the plants, to ensure proper soil contact and no air pockets around the roots. For areas specified with seeding and erosion control blanket, perennial plants will be planted following seeding and the installation of erosion blanket. Cut slits into the blanket and plant through the slits. Thorough watering of the perennial plants will immediately follow the backfilling operation and will completely saturate the root zone.

Period of Establishment and Plant Care: The Contractor shall guarantee survival of plant material installed for a period of one (1) year from the date of formal project acceptance. To be acceptable, a minimum of 85% of the perennial plants will be in a live, healthy condition, representative of their species. Plants that do not meet the requirements will be replaced at no additional cost to the Owner. During the guarantee period, the Contractor will properly care for all perennial plants including weeding, watering, plant protection and/or other work as necessary to maintain the

health and satisfactory appearance of the plantings. If the selected protection measures include staking, the Contractor shall use bio-degradable stakes.

Basis of Payment: This work will be paid for at the contract unit price per unit for PERENNIAL PLANTS, of the type and size specified. One (1) unit will equal 100 perennial plants. Proper plant care and/or perennial plant replacement during the guarantee period will be considered included in the cost for PERENNIAL PLANTS.

SP-49 TREE PLANTING:

Description: This work will consist of furnishing, transporting and planting trees at locations designated on the plans. Plant material will be local genotype from within a radius of 100 miles from the site. The work will include mulching, watering, weeding, bracing and all work as described herein. Wrapping and weed barrier fabric is not required.

Materials: Materials will meet the requirements of the following articles of the Standard Specifications, trees according to Section 1081.01, topsoil according to Section 1081.05(a) and mulch according to Section 1081.06(b).

Tree Planting, of the type specified:

EACH	SCIENTIFIC NAME	COMMON NAME	SIZE	TYPE	NOTES
2.00	<i>CELTIS OCCIDENTALIS</i>	COMMON HACKBERRY	2" CALIPER	BALLED AND BURLAPPED	
2.00	<i>CERCIS CANADENSIS</i>	EASTERN REDBUD	6' HEIGHT	BALLED AND BURLAPPED	CLUMP FORM
1.00	<i>CRATAEGUS MOLLIS</i>	DOWNY HAWTHORN	6' HEIGHT	BALLED AND BURLAPPED	CLUMP FORM
3.00	<i>JUGLANS NIGRA</i>	BLACK WALNUT	2" CALIPER	BALLED AND BURLAPPED	
5.00	<i>OSTRYA VIRGINIANA</i>	AMERICAN HOPHORNBEAM	8' HEIGHT	BALLED AND BURLAPPED	CLUMP FORM
4.00	<i>QUERCUS ALBA</i>	WHITE OAK	2" CALIPER	BALLED AND BURLAPPED	
1.00	<i>QUERCUS MACROCARPA</i>	BUR OAK	2" CALIPER	BALLED AND BURLAPPED	
3.00	<i>QUERCUS RUBRA</i>	RED OAK	2" CALIPER	BALLED AND BURLAPPED	

Planting Time: Plants must be dormant when delivered to the storage site or project site. Spring planting will be performed from the time the soil can be worked until the plant, under field conditions, is not dormant. Oak (*Quercus spp.*) and Hawthorn (*Crataegus spp.*) will be planted ONLY during the spring planting season. Fall planting will be performed from the time the plant becomes dormant until the ground cannot be satisfactorily worked. All material not planted according to the specified seasonal date will require prior written approval from the City. Failure to secure such approval will result in rejection of the plant material and replacement at no additional cost to the City.

Digging & Transportation: Plants will not be dug until the Contractor is ready to transport them from their original locations to the site of the work or approved

storage. The maximum time lapse between digging and being properly loaded according to Article 1081.01 or the Standard Specifications for delivery to the site of the work or being placed in approved storage will be four days. They will be dug and transported with care, avoiding injury to the plants or loss or damage to the roots, particular attention being given to fibrous roots. Immediately after digging, roots will be protected against drying out and freezing.

Temporary Storage: No tree will remain in temporary storage over the summer. Trees may remain on the site of work only 72 hours prior to being planted or placed in storage. Plants delivered to the project that are not to be planted immediately will be kept moist and their solidity carefully preserved. To prevent drying out or freezing, they will be stored either in a cool moist storage building or placed in a compact group with a suitable mulch material placed around and between the balls so they are completely covered.

Excavation of Tree Pits: The diameter of tree pits will be equal to three times the diameter of the root ball and depth of the pit will be equal to the depth of the root ball minus two inches and will be saucer shaped. On slopes, the depth of excavation will be measured at the center of the tree pit. The excess material excavated from the tree pits will be spread in the immediate area. The excavated material will not be stockpiled in areas of turf grass, in ditches, streams or wetlands. The sides of the holes will not be glazed or smooth.

Pruning: All pruning will be performed by a professional arborist and in such a manner as to preserve the natural growth habit of each plant. All pruning will be completed according to the current ANSI A300 (Part 1) – Pruning Standard. The ends of all broken and damaged roots of ¼ inches or larger will be pruned with a clean cut, removing only the injured portion. Pruning branches will consist of removing broken limbs or thinning as dictated by the habit of growth of the various types of trees. The leader and terminal buds will NOT be cut.

Planting Procedure: The backfill will consist of suitable soil removed from the excavation of tree pits and topsoil as needed to match the level of the existing grade. Suitable backfill soil at the time of planting will be capable of providing a sound growth environment and be in a loose, friable condition. If the existing soil is unsuitable the backfill will consist of topsoil at no additional cost. At no time will backfill or topsoil be stockpiled on turf grass or in ditches, streams or wetlands.

All trees will be placed in a plumb position on undisturbed subgrade and set two inches higher than the depth they grew in the nursery. All cords and burlap will be removed from around the trunk after the plant is placed in the tree pit. Wire baskets will be removed from the upper one half of the root ball. Remove excess soil from around the trunk to expose the root flare. The root flare will remain visible and exposed to air following the planting procedure. All materials will be disposed of properly. During the planting operation, care will be taken not to destroy the solidity of the soil ball. Backfill will be placed in 6 inch lifts around the root system. Tamping or watering will accompany the backfilling operation to eliminate air pockets. All trees will have a water saucer constructed of soil equal to one half the diameter of the tree pit width and four inches in depth.

Thorough watering of the trees will immediately follow the backfilling operation and will completely saturate the backfill. After the ground settles as a result of the watering, additional backfill will be placed to match the level grown in the nursery. Approved watering equipment will be at the site of work and in operational condition prior to starting planting operations.

Within 24 hours after planting, hardwood bark mulch will be placed around trees in the water saucer area to a depth of four inches. Care will be taken to keep mulch pulled away from the trunk of the trees. All trees will be fitted with a watering bag within 24 hours of installation according to the special provision TREE WATERING BAG.

Bracing: Newly planted trees will require bracing with three (3) 8 feet long steel posts so placed that they are equidistant from each other and adjacent to the outside of the ball. The posts will be driven vertically to a depth of 18 inches below the bottom of the hole. The anchor plate will be aligned perpendicular to a line between the tree and the post. The tree will be firmly attached to each post with a double guy of 14 gauge steel wire. The portion of the wire in contact with the tree will be encased in a rubber hose. During the 3-year monitoring period, if trees blow down or are otherwise injured due to improper bracing, the City may reject such injured trees, and the rejected trees will be replaced at no additional expense to the City.

Period of Establishment and Plant Care: The Contractor shall guarantee survival of plant material installed for a period of one (1) year from the date of formal project acceptance. To be acceptable, 100% of the trees will be in a live, healthy condition, representative of their species. Plants that do not meet the requirements will be replaced at no additional cost to the Owner. During the guarantee period, the Contractor will properly care for all trees including plant protection, weeding, watering and/or other work as necessary to maintain the health and satisfactory appearance of the plantings. If the selected protection measures include staking, the Contractor shall use bio-degradable stakes.

Basis of Payment: This work will be paid for at the contract unit price per each for TREE PLANTING of the species, root type and plant size specified. Only the initial planting will be paid. Proper plant care and/or replacement tree planting during the guarantee period will be considered included in the cost for TREE PLANTING.

SP-50 LANDSCAPE MAINTENANCE:

Description: This work will consist of providing landscape maintenance for the Woods of Fox Glen Creek Stabilization project site for the duration of three (3) years. The Contractor will properly care for the maintenance area including supplemental watering, weed control, conservation mowing, controlled burn, tree replacement, supplemental seeding, supplemental planting, topsoil furnish and placement, placement of erosion control blanket and/or other work which is necessary to successfully achieve the outlined performance standards. The Contractor will perform a minimum of two field visits during the growing season per year or more

frequently if necessary or as directed by the City. The 3-year landscape maintenance period will begin following the guarantee period and final acceptance from the Owner.

Quality Assurance: The work of this section will be performed by an experienced Contractor who has a minimum of five years documented experience with the maintenance of similar native areas. All herbicide application will be performed by persons currently licensed in the State of Illinois for Herbicide Application.

Performance Standards: The following performance standards are considered minimum indicators for successful landscape maintenance of the project site;

- Stabilized slopes and channel lining structures, rills and gullies filled with topsoil, graded and stabilized with suitable plant material and erosion control blanket.
- 90% survival rate of the tree plantings.
- 90% survival rate of the perennial plantings.
- 95% vegetative coverage (measured by aerial coverage) within the maintenance area.
- 50% vegetative coverage (measured by aerial coverage) of seeded and planted species.
- 75% vegetative coverage (measured by aerial coverage) of native, non-invasive species.
- No area greater than 0.5 square meters devoid of vegetation. This standard does not apply to emergent and aquatic communities within the creek.
- None of the three most dominant plant species within the maintenance area may be non-native, invasive or weedy species, including but not limited to Reed Canary Grass (*Phalaris arundinacea*), Cattail (*Typha spp.*), Common Reed (*Phragmites australis*), Kentucky Bluegrass (*Poa pratensis*), Canada Bluegrass (*Poa compressa*), Purple Loosestrife (*Lythoroughm salicaria*), Barnyard Grass (*Echinochloa crusgalli*), Ragweed (*Ambrosia spp.*), Teasel (*Dipsacus spp.*), Canada Thistle (*Cirsium arvense*), Sweet Clover (*Melilotus spp.*), Sandbar Willow (*Salix interior*), Buckthorn (*Rhamnus spp.*) and Box Elder (*Acer negundo*).
- The Contractor shall provide a written report to the City of St. Charles at the end of each year of Landscape Maintenance performed summarizing the landscape maintenance activities performed for the year.

Basis of Payment: This work will be paid for at the contract unit price per lump sum for LANDSCAPE MAINTENANCE - YEAR 1, LANDSCAPE MAINTENANCE - YEAR 2 and LANDSCAPE MAINTENANCE - YEAR 3 and will include all necessary maintenance activities required to successfully achieve the required performance standards by the end of the 3-year maintenance period. For each pay item year of LANDSCAPE MAINTENANCE, following the first site visit 50% of the pay item will be paid and following the final site visit the remaining 50% of the pay item will be paid.

The following activities may be utilized by the Contractor during the 3-year landscape maintenance period to successfully achieve the performance standards outlined in SP-37 LANDSCAPE MAINTENANCE. These activities

include but are not limited to CONTROL BURN, CONSERVATION MOWING, WEED CONTROL, TREE REMOVAL, SUPPLEMENTAL WATERING, TREE WATERING BAG, SUPPEMENTAL SEEDING, SUPPLEMENTAL PERENNIAL PLANTING, SUPPLEMENTAL TREE PLANTING and TOPSOIL FURNISH AND PLACE. These items will not be paid separately and will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

CONTROLLED BURN – LANDSCAPE MAINTENANCE

Description: This work will consist of performing a controlled burn for the ecological management of seeded areas during the 3-year landscape maintenance period. This work will include all work and materials including drip torch fuel, fire suppression, weed whipping, watering, raking, mowing and all work described herein. The areas burned will consist of wetlands and upland slopes with existing vegetation. The Contractor will be responsible for obtaining all required permits and authorizations prior to the commencement of burning.

Quality Assurance: This work will be performed by an experienced Contractor who has a minimum of five years documented experience with controlled burns of native areas. A Certified Burn Manager must prepare the written burn plan for review by the City and be present on site during the controlled burn activities.

Schedule: This work will be completed in the spring during the months of March or April or in the fall during the months of October or November. This work will be performed following WEED CONTROL, weather permitting, to control weeds and promote native species growth. This work must be completed at least 2 months before SEEDING a given area.

Permits: This work will also include obtaining a burn permit for Prairie and Ecological Management from the Illinois Environmental Protection Agency (IEPA). The Contractor will also be responsible for any and all notification requirements contained in permits and authorizations. The Contractor will provide a copy of all permits to the City prior to commencement of control burning. The contact information is found below:

State of Illinois
Environmental Protection Agency
Bureau of Air
P.O. Box 19276
Springfield, IL 62794-9276

General Requirements: The controlled burn will be performed under the direction and responsibility of a Certified Prescribed Burn Manager. The control burn will only be conducted when wind speed is below 10 mph and relative humidity is above 20%. Burning will not occur when the temperature exceeds 70 degrees and wind directions are blowing towards buildings, roadways, especially in the direction of residential homes. Prior to igniting the fire, burnable fuel adjacent to fire sensitive

objects will be removed and/or saturated with water. Firebreaks will be utilized to stop the fire from burning any non-target areas. Fires will be controlled using hand tools and water pumps and will completely extinguished before leaving the site.

The Contractor will abide by all local rules and regulations governing open burning including the Kane County Code. Restrictions include but are not limited to the following:

1. Burning is only permitted on sunny warm temperature days between 10:00am and 3:00pm.
2. Burning is not permitted when the wind speed is in excess of 10 miles per hour.
3. Burning is not permitted when it is determined and announced by the Kane County Health Department that inversion conditions or an ozone alert exists.
4. Burning must be supervised until the fire is extinguished.
5. A fire extinguisher or water source will be available at the burning site.

Burn Plan: The Contractor will submit a burn plan and signage plan to the City for review and approval a minimum of 2 weeks prior to scheduling a burn. The burn plan must contain the following items:

1. Description of burn equipment and manpower to be utilized
2. Optimal weather conditions
3. Notification requirements
4. Public meeting schedule
5. Burn area
6. Fire breaks
7. Burn sequence
8. Backup plan in the event of plan failure or backup equipment

Notification: The Contractor will notify the City and adjacent land owners within a 300ft radius of the property boundary via an approved, printed and hand delivered burn notice one (1) week prior to the scheduled date and again a maximum of 24 hours in advance of the controlled burn. The Contractor will also coordinate the date and time with City and local fire and police departments 48 hours prior to the burn and contact immediately before and after the control burn is conducted. The Contractor will be solely responsible for these activities. The contact information for the local fire and police are found below:

Fox River and Countryside Fire/Rescue District
40W304 LaFox Road - Unit C, St. Charles, IL. 60175
Non-Emergency Telephone: (630) 584-3473

St. Charles Fire Department
112 N. Riverside Avenue, St. Charles, IL 60174
Non-Emergency Telephone: (630) 762-7035

St. Charles Police Department
211 N. Riverside Avenue, St. Charles, IL 60174

Non-Emergency Telephone: (630) 377-4435

Basis of Payment: This work will not be measured for payment. The cost associated with required permits, authorizations and performing a controlled burn during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

CONSERVATION MOWING – LANDSCAPE MAINTENANCE

Description: This work will consist of mowing existing vegetation prior to seeding activities during the 3-year landscape maintenance period. Areas to be seeded with Class 4 & 5 will be mowed one or more times to achieve a height not more than 6 inches. Areas to be seeded with Class 1A will be mowed to a height not to exceed 3 inches. This work will include all mowing, trimming, materials, equipment, labor, removal, disposal and incidentals required to complete the work as specified herein.

General Requirements: The Contractor will keep all mowing equipment sharp and properly equipped for operation in a native area. The equipment used will be capable of completely severing all growth at the cutting height and distributing it evenly over the mowed area. Special equipment may be required on steep slopes, in narrow areas, and for trimming around posts, poles, fences, trees, shrubs, seedings, etc. The cut material will not be windrowed or left in a lumpy or bunched condition. Additional mowing or trimming may be required to obtain the height specified or to disperse the mowed material and allow penetration of the seed.

Debris encountered during the mowing operations which hampers the operation will be removed and disposed of according to Article 202.03. All trimmings, windrowed material, and debris must be removed to the satisfaction of the City. Damage to the ground surface, such as ruts or wheel tracks more than 2 inches in depth, or other plantings caused by the mowing or trimming operation will be repaired and the Contractors expense.

Basis of Payment: This work will not be measured for payment. The cost associated with performing conservation mowing during the 3-year landscape maintenance period including removal and disposal of debris will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

WEED CONTROL, NON-SELECTIVE AND NON-RESIDUAL – LANDSCAPE MAINTENANCE

Description: This work will consist of the application of non-selective and non-residual herbicide on upland slopes and wetlands during the 3-year landscape maintenance period. Herbicide (Rodeo or approved equal) will be applied on upland slopes for the control of non-native weedy herbaceous species including but not limited to Clover species (*Melilotus spp.* and *Trifolium spp.*), Thistle (*Cirsium spp.*), Ragweed (*Ambrosia spp.*) and Queen Anne's Lace (*Daucus carota*). Aquatic-safe

herbicide (Habitat or approved equal) will be applied in wetlands and areas of flowing water for the control of invasive herbaceous species including but are not limited Reed Canary Grass (*Phalaris arundinacea*), Cattail (*Typha angustifolia* and *Typha x glauca*) and Common Reed (*Phragmites australis*). Weed control will be applied per manufacturer's instructions.

Quality Assurance: Weed control will be applied by a Pesticide Applicator licensed in the State of Illinois. The Contractor will provide copies of current herbicide application licenses to the City for all employees assigned to the project.

Pesticide Permit: This work will also include obtaining a General NPDES Permit for Pesticide Application Point Source Discharges from the Illinois Environmental Protection Agency (IEPA) Division of Water Pollution Control. The Contractor is responsible for securing the necessary authorizations for herbicide application. The Contractor will also be responsible for all reporting requirements contained in permits and authorizations. The Contractor will provide a copy of all permits to the City prior to commencement of weed control. The contact information for the IEPA is found below:

State of Illinois
Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue
P.O. Box 19276
Springfield, IL 62794-9276

Materials:

The non-selective and non-residual herbicide (Rodeo or approved equal) will have the following formulation:

Active Ingredient:
*Glyphosate, N- (phosphonomethyl) glycine, isopropylamine salt 53.8%
Other Ingredients (including surfactant): 46.2%
Total: 100.0%

*Contains 480 grams per liter or 4 pounds per U.S. gallon of the active ingredient Glyphosate, in the form of its isopropylamine salt. Equivalent to 356 grams per liter or 3 pounds per U.S. gallon of the acid, glyphosate.

The non-selective and non-residual herbicide (Habitat or approved equal) will have the following formulation:

Active Ingredient:
Isopropylamine salt of Imazapyr (2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-Pyridinecarboxylic acid)* 28.7%
Other Ingredients: 71.3%
Total: 100.0%

Schedule: Spraying will not be allowed when temperatures exceed 90° F or under 60° F, when wind velocities exceed fifteen (15) miles per hour, when foliage is wet or rain is eminent, when visibility is poor or during legal holiday periods.

General Requirements: The Contractor will submit a certificate including the following, prior to starting work:

1. The chemical names of the compound and the percentage by volume of the ingredients which must match the above specified formulation including all Material Safety Data Sheets (MSDS).
2. A statement that the material is in a solution which will form a satisfactory emulsion for use when diluted with water for normal spraying conditions.
3. A statement that the herbicide, when mixed with water, will be completely soluble and dispersible and remain in suspension with continuous agitation.
4. A statement describing the products proposed for use when the manufacturer of the herbicide or equal requires that surfactants, drift control agents, or other additives be used with the product. These tank mix additives will be used as specified by the manufacture.

All material will be brought to the spray area in the original, unopened containers supplied by the manufacturer.

Basis of Payment: This work will not be measured for payment. The cost associated with performing weed control during the 3-year landscape maintenance period including permits, water for dilution and additives required for application will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

WEED CONTROL, HAND REMOVAL – LANDSCAPE MAINTENANCE

Description: This work will consist of performing hand and/or manual-tool (shovel, spade, etc.) removal and disposal of invasive species during the 3-year landscape maintenance period. Hand removal will include removal of flowering heads from Purple Loosestrife (*Lythrum salicaria*) within wetland areas prior to flowers going to seed. Purple Loosestrife seed heads will be cut, bagged and removed from the specified area. This work will also include manual removal of Cattail (*Typha spp.*) within wetland areas. All debris as a result from this operation will be removed at the end of each day.

Basis of Payment: This work will not be measured for payment. The cost associated with performing weed control during the 3-year landscape maintenance period including all necessary labor, materials and equipment will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

SUPPLEMENTAL WATERING – LANDSCAPE MAINTENANCE

Description: This work will include watering newly planted trees, perennials and seeded areas during the 3-year landscape maintenance period. Water will trickle slowly into the soil, completely and uniformly soak the root zone of the trees and perennials. During the summer or times of extreme heat, plants will be watered on a regular basis. Damage to plant material that is a result of the Contractor's failure to water in a timely way must be repaired or replaced at the Contractor's expense. The Contractor will not be relieved in any way from the responsibility of unsatisfactory plants due to the amount of watering.

Source of Water: The Contractor will notify the City of the source of water used and provide written certification that the water does not contain chemicals harmful to plant growth.

Basis of Payment: This work will not be measured for payment. The cost associated with all water, equipment, and labor as needed for supplemental watering during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

TREE WATERING BAG – LANDSCAPE MAINTENANCE

Description: This work will include the temporary installation and removal of tree watering bags on newly planted trees within the project area. Immediately following planting, all new trees will be fitted with a single irrigation bag. The Contractor may remove the tree watering bags one year following planting. All trees watering bags will be removed by the end of the 3-year landscape maintenance period.

Materials: The tree irrigation bag will be as manufactured by Treegator or equal. The general requirements of the irrigation bag will be:

- Capable of providing 20 gallons of water in a single bag.
- Capable of fitting 1 to 4 inch caliper tree trunk.
- Made of polyethylene with nylon webbing, poly straps and nylon zipper.
- Complete with two (2) water release points per bag.
- UV stabilized to withstand exposure to sunlight.
- Fill opening fits up to a 3" diameter hose.

Basis of Payment: This work will not be measured for payment. The cost associated with furnishing and removal of tree watering bags during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

TREE REMOVAL – LANDSCAPE MAINTENANCE

Description: This work will consist of removing planted trees that have died during the 3-year landscape maintenance period by cutting flush with existing grade and disposing debris off-site. The work will include all debris removal, trimming, smoothing, finishing, labor, materials, tools, and equipment required to complete the work herein.

Basis of Payment: This work will not be measured for payment. The cost associated with tree removal during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

TOPSOIL FURNISH AND PLACE – LANDSCAPE MAINTENANCE

Description: It is anticipated that additional topsoil will be required for landscape maintenance operations including repairing erosion, rills and gullies. Locations for topsoil placement will be at the direction of the City. Providing and placing topsoil will be as described herein and in accordance with Sections 211 and 1081 of the Standard Specifications.

Basis of Payment: This work will not be measured for payment. The cost associated with topsoil furnish and place during the 3-year landscape maintenance period will be considered included in the cost for LANDSCAPE MAINTENANCE of the year specified.

END OF SPECIAL PROVISIONS

SOIL BORING DATA

Rubino Job No.: G11110
Project: Woods of Fox Glen Creek Stabilization
Location: Off of Fox Glen Drive
North:
East:

Drilling Method: Hollow Stem Auger
Sampling Method: Shelby Tube/Split Spoon
Hammer Type: Manual
Boring Location: Streambed

WATER LEVELS
▽
▽
▽

Elevation (feet)	Depth, (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS) Push Pressure (ST)	Moisture, %	STANDARD PENETRATION TEST DATA			Additional Remarks
											N in blows/ft ©			
											X Moisture □ PL 0 25 50 + LL			
												STRENGTH, tsf ▲ Qu * Qp 0 2.0 4.0		
710	0						Surface Elev.: 712 ft Gray fine to medium SAND, with fines, trace gravel	SM						

Completion Depth: 2.0 ft
Date Boring Started: 5/6/11
Date Boring Completed: 5/6/11
Logged By: TJD
Drilling Contractor: Rubino

Sample Types:
 Auger Cutting Shelby Tube
 Split-Spoon Hand Auger
 Rock Core Texas Cone

Latitude:
Longitude:
Drill Rig: Density Drive Sampler
Remarks: N values were not obtained

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
Project: Woods of Fox Glen Creek Stabilization
Location: Off of Fox Glen Drive
North:
East:

Drilling Method: 2 1/4" Hollow Stem Auger
Sampling Method: Split Spoon
Hammer Type: Automatic
Boring Location: Streambed

WATER LEVELS	
▽ While Drilling	N/A
▼ Upon Completion	N/A
▽ Delay	N/A

Elevation (feet)	Depth, (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	STANDARD PENETRATION TEST DATA		Additional Remarks
										N in blows/ft	Moisture, %	
	0						Surface Elev.: 709 ft					
				1	4		Brown SAND and GRAVEL, trace dark brown silty clay, loose	GP	2,2,7 N=9	20	⊙	
							Dark brown silty CLAY with sand and gravel, stiff	CL			×	
				2	18		Brown silty fine SAND, trace gravel, medium dense	SP	4,9,16 N=25	21	⊙	
	5						End of boring at 5 feet No free groundwater observed to collect during drilling operation					

Completion Depth: 5.0 ft
Date Boring Started: 4/11/11
Date Boring Completed: 4/11/11
Logged By: TJB
Drilling Contractor: GBE

Sample Types:
 Auger Cutting
 Split-Spoon
 Rock Core
 Shelby Tube
 Hand Auger
 Texas Cone

Latitude:
Longitude:
Drill Rig: ATV
Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
 Project: Woods of Fox Glen Creek Stabilization
 Location: Off of Fox Glen Drive
 North:
 East:

Drilling Method: 2 1/4" Hollow Stem Auger
 Sampling Method: Split Spoon
 Hammer Type: Automatic
 Boring Location: West Slope

WATER LEVELS	
▽ While Drilling	N/A
▼ Upon Completion	N/A
▽ Delay	N/A

Elevation (feet)	Depth (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	Moisture, %	STANDARD PENETRATION TEST DATA		Additional Remarks
										N in blows/ft	Moisture	
	0					Station: N/A Offset: N/A						
						Surface Elev.: 722 ft						
						Approximately 12 inches of dark brown clayey TOPSOIL						
720				1	12	Light brown silty fine to medium SAND, with clay, trace gravel, very dense to extremely dense		4,6,8 N=20	23			
	5			2	18			5,10,15 N=35	14	X		
715				3	18			4,9,12 N=30	13	X	■	LL = 21 PL = 14
	10			4	18			9,15,29 N=59	12	X		>>⊙
710												
	15			5	18			15,30,32 N=92	12	X		>>⊙
705												
	20			6	0		SM	50/4"		⊙		
700												
	25			7	18			26,40,31 N=71	9	X	■	LL = 15 PL = 14

Continued Next Page

Completion Depth: 40.0 ft
 Date Boring Started: 4/11/11
 Date Boring Completed: 4/11/11
 Logged By: TJB
 Drilling Contractor: GBE

Sample Types:

	Auger Cutting		Shelby Tube
	Split-Spoon		Hand Auger
	Rock Core		Texas Cone

Latitude:
 Longitude:
 Drill Rig: ATV
 Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
 Project: Woods of Fox Glen Creek Stabilization
 Location: Off of Fox Glen Drive
 North:
 East:

Drilling Method: 2 1/4" Hollow Stem Auger
 Sampling Method: Split Spoon
 Hammer Type: Automatic
 Boring Location: West Slope

WATER LEVELS	
▽ While Drilling	N/A
▼ Upon Completion	N/A
▽ Delay	N/A

Elevation (feet)	Depth, (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	Moisture, %	STANDARD PENETRATION TEST DATA				Additional Remarks		
											N in blows/ft @						
											STRENGTH, tsf						
											X Moisture				▲ Qu		
											■ PL				* Qp		
											● LL						
											0 25 50				0 2.0 4.0		
25							Light brown silty fine to medium SAND, with clay, trace gravel, very dense to extremely dense										
695																	
	30			8	8				46,50/3"	20		X					
690																	
	35			9	10				37,50/5"	15		X					
685							Light brown fine to medium SAND, trace gravel, very dense	SP									
	40			10	4		End of boring at 40 feet No free groundwater to collect during drilling operation		50/5"		⊙						

Completion Depth: 40.0 ft
 Date Boring Started: 4/11/11
 Date Boring Completed: 4/11/11
 Logged By: TJB
 Drilling Contractor: GBE

Sample Types:

-  Auger Cutting
-  Split-Spoon
-  Rock Core
-  Shelby Tube
-  Hand Auger
-  Texas Cone

Latitude:
 Longitude:
 Drill Rig: ATV
 Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
 Project: Woods of Fox Glen Creek Stabilization
 Location: Off of Fox Glen Drive
 North:
 East:

Drilling Method: 2 1/4" Hollow Stem Auger
 Sampling Method: Split Spoon
 Hammer Type: Automatic
 Boring Location: East Slope

WATER LEVELS	
▽ While Drilling	N/A
▽ Upon Completion	N/A
▽ Delay	N/A

Elevation (feet)	Depth (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	Moisture, %	STANDARD PENETRATION TEST DATA N in blows/ft ⊙ Moisture ⊠ PL × Moisture ⊕ LL	STRENGTH, tsf ▲ Qu * Qp	Additional Remarks
719	0						Surface Elev.: 719 ft						
	12			1	12		Dark brown fine sandy CLAY, trace sand and gravel, medium stiff	CL	5,3,3 N=6	22	⊙		3 inch gravel and sand seam at 1 1/2 feet
	18			2	18		Light brown silty CLAY, trace sand and gravel, stiff to very stiff	CL	6,9,15 N=24	13	⊙		
715	5			3	18			CL	9,13,17 N=30	11	⊙		
710	10			4	18			CL	8,14,14 N=28	9	⊙		
	10						End of boring at 10 feet No free groundwater observed to collect during drilling operation						

Completion Depth: 10.0 ft
 Date Boring Started: 4/11/11
 Date Boring Completed: 4/11/11
 Logged By: TJB
 Drilling Contractor: GBE

Sample Types:

-  Auger Cutting
-  Split-Spoon
-  Rock Core
-  Shelby Tube
-  Hand Auger
-  Texas Cone

Latitude:
 Longitude:
 Drill Rig: ATV
 Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
 Project: Woods of Fox Glen Creek Stabilization
 Location: Off of Fox Glen Drive
 North:
 East:

Drilling Method: 2 1/4" Hollow Stem Auger
 Sampling Method: Split Spoon
 Hammer Type: Automatic
 Boring Location: East Slope

WATER LEVELS	
▽ While Drilling	N/A
▽ Upon Completion	N/A
▽ Delay	N/A

Elevation (feet)	Depth, (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	STANDARD PENETRATION TEST DATA		Additional Remarks
										N in blows/ft	Moisture, %	
	0						Surface Elev.: 724 ft					
	0			1	9		Dark brown fine sandy CLAY, trace sand and gravel, medium stiff	CL	3,4,2			
	2						Light brown fine to medium SAND, trace gravel, loose	SP	N=6			3 inch gravel and sand seam at 2 feet
720	5			2	18		Light brown silty CLAY, trace sand and gravel, very stiff	CL	4,8,13			
	5								N=21			
				3	4			CL	8,12,14			
									N=26			
715				4	6		Light brown and gray fine sandy CLAY, trace gravel, very stiff	SC	8,9,14			
	10						End of boring at 10 feet No free groundwater observed to collect during drilling operation		N=23			

Completion Depth: 10.0 ft
 Date Boring Started: 4/11/11
 Date Boring Completed: 4/11/11
 Logged By: TJB
 Drilling Contractor: GBE

Sample Types:

Auger Cutting	Shelby Tube
Split-Spoon	Hand Auger
Rock Core	Texas Cone

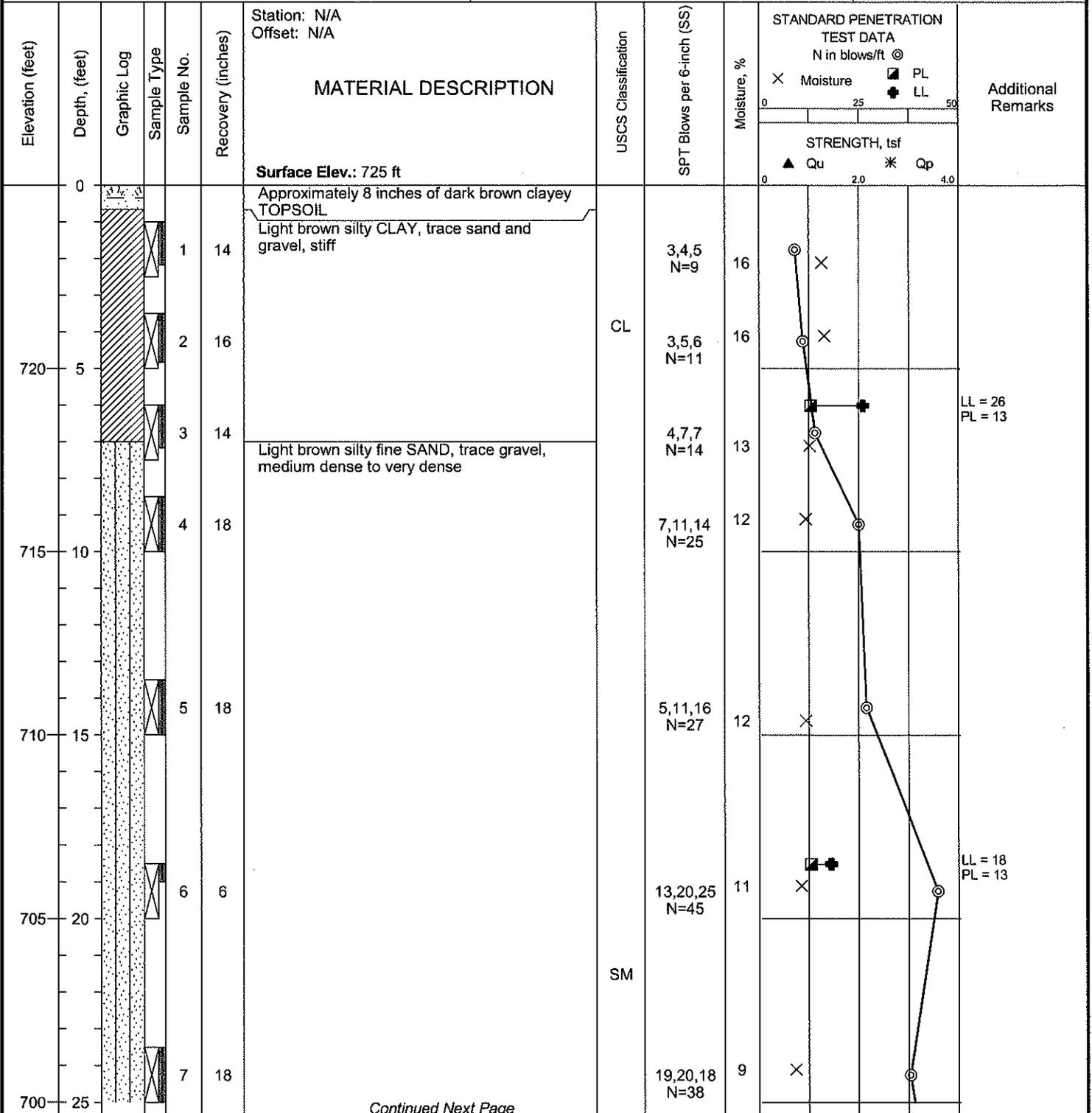
Latitude:
 Longitude:
 Drill Rig: ATV
 Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
 Project: Woods of Fox Glen Creek Stabilization
 Location: Off of Fox Glen Drive
 North:
 East:

Drilling Method: 2 1/4" Hollow Stem Auger
 Sampling Method: Split Spoon
 Hammer Type: Automatic
 Boring Location: West Slope

WATER LEVELS	
▽ While Drilling	N/A
▼ Upon Completion	N/A
▽ Delay	N/A



Continued Next Page

Completion Depth: 40.0 ft
 Date Boring Started: 4/11/11
 Date Boring Completed: 4/11/11
 Logged By: TJB
 Drilling Contractor: GBE

Sample Types:

-  Auger Cutting
-  Split-Spoon
-  Rock Core
-  Shelby Tube
-  Hand Auger
-  Texas Cone

Latitude:
 Longitude:
 Drill Rig: ATV
 Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.

Rubino Job No.: G11110
Project: Woods of Fox Glen Creek Stabilization
Location: Off of Fox Glen Drive
North:
East:

Drilling Method: 2 1/4" Hollow Stem Auger
Sampling Method: Split Spoon
Hammer Type: Automatic
Boring Location: West Slope

WATER LEVELS	
▽ While Drilling	N/A
▼ Upon Completion	N/A
▽ Delay	N/A

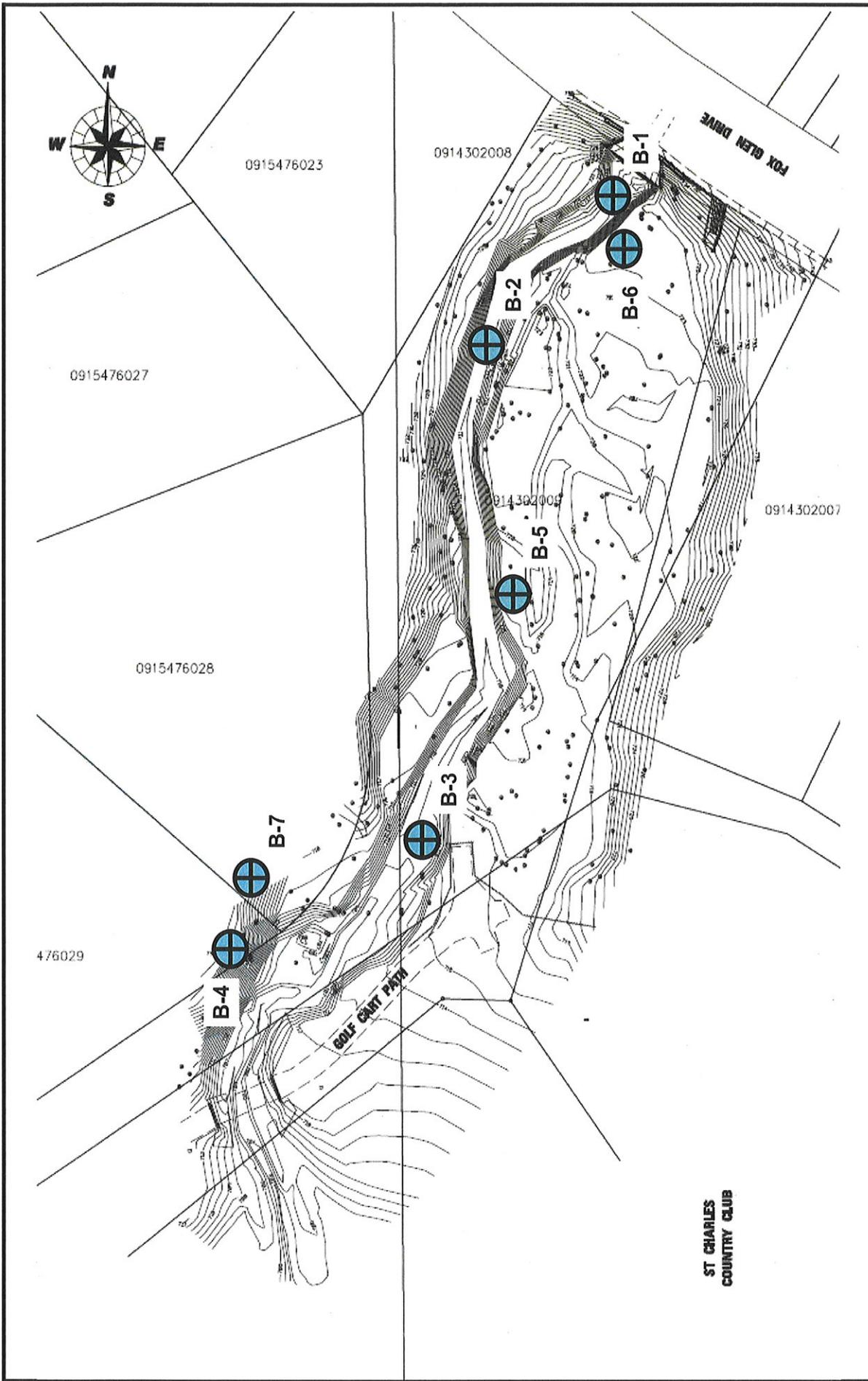
Elevation (feet)	Depth (feet)	Graphic Log	Sample Type	Sample No.	Recovery (inches)	Station: N/A Offset: N/A	MATERIAL DESCRIPTION	USCS Classification	SPT Blows per 6-inch (SS)	Moisture, %	STANDARD PENETRATION TEST DATA		Additional Remarks
											N in blows/ft	⊙	
25							Light brown silty fine SAND, trace gravel, medium dense to very dense						
695	30			8	18				14, 23, 22 N=45	22	×	⊙	
690	35			9	18				22, 37, 44 N=81	15	×	>>⊙	
							Brown fine to medium SAND, trace gravel, extremely dense	SP					
685	40			10	18				21, 37, 49 N=86			>>⊙	
							End of boring at 40 feet No free groundwater to collect during drilling operation						

Completion Depth: 40.0 ft
Date Boring Started: 4/11/11
Date Boring Completed: 4/11/11
Logged By: TJB
Drilling Contractor: GBE

Sample Types:
 Auger Cutting
 Split-Spoon
 Rock Core
 Shelby Tube
 Hand Auger
 Texas Cone

Latitude:
Longitude:
Drill Rig: ATV
Remarks:

The stratification lines represent approximate boundaries. The transition may be gradual.



**Boring
Location
Plan**

Project Name: Fox Glen Drive Streambank Stabilization
Project Location: Off of Fox Glen Drive
 St. Charles, IL
Client: Wills Burke Kelsey Associates, Ltd.
Project #: G11110

rubino
 ENGINEERING INC.
 665 Tollgate Rd. Unit H
 Elgin, Illinois 60123

IEPA FORM LPC-662 (CCDD)



Bureau of Land • 1021 North Grand Avenue East • P.O. Box 19276 • Springfield • Illinois • 62794-9276

Source Site Certification
by Owner or Operator
for Use of Uncontaminated Soil as Fill in a
CCDD or Uncontaminated Soil Fill Operation
LPC-662
Revised in accordance with 35 Ill. Adm. Code 1100, as
amended by PCB R2012-009 (eff. Aug. 27, 2012)

This certification form is to be used by source site owners and operators to certify, pursuant to 35 Ill. Adm. Code 1100.205(a)(1) (A), that soil (i) was removed from a site that is not potentially impacted property and is presumed to be uncontaminated soil and (ii) is within a pH range of 6.25 to 9.0. If you have questions about this form, please telephone the Bureau of Land Permit Section at 217/524-3300.

This form may be completed online, saved locally, printed and signed, and submitted to prospective clean construction or demolition debris fill operations or uncontaminated soil fill operations.

I. Source Location Information

(Describe the location of the source of the uncontaminated soil)

Project Name: Fox Glen Drive Office Phone Number, if available: 630-377-4400

Physical Site Location (Street, Road): Fox Glen Drive

City: St. Charles State: IL Zip Code: 60174

County: Kane Township:

Lat/Long of approximate center of site in decimal degrees (DD.ddddd) to five decimal places (e.g., 40.67890, -90.12345):

Latitude: 41°56'54.32"N Longitude: -88°18'3.69"W
(Decimal Degrees) (-Decimal Degrees)

Identify how the lat/long data were determined:

- GPS Map Interpolation Photo Interpolation Survey Other

Google Earth

IEPA Site Number(s), if assigned: BOL: BOW: BOA:

II. Owner/Operator Information for Source Site

Form with two columns: Site Owner and Site Operator. Fields include Name, Street Address, PO Box, City, State, Zip Code, Phone, and Contact/Email.

Latitude: 41°56'54.32"N Longitude: -88°18'3.69"W
(Decimal Degrees) (-Decimal Degrees)

Source Site Certification

III. Descriptions of Current and Past Uses of Source Site

Describe the current and past uses of the site and nearby properties.* Attach additional information as needed. The description must take into account, at a minimum, the following for the source site and for nearby property: (1) use of the properties for commercial or industrial purposes; (2) the use, storage or disposal of chemical or petroleum products in individual containers greater than 5 gallons or collectively more than 50 gallons; (3) the current or past presence of any storage tanks (above ground or underground); (4) any waste storage, treatment or disposal at the properties; (5) any reported releases or any environmental cleanup or removal of contaminants; (6) any environmental liens or governmental notification of environmental violations; (7) any contamination in a well that exceeds the Board's groundwater quality standards; (8) the use, storage, or disposal of transformers or capacitors manufactured before 1979; and (9) any fill dirt brought to the properties from an unknown source or site.

Number of pages attached: 0

The property was farm land and is currently residential single family homes.

*The description must be sufficient to demonstrate that the source site is not potentially impacted property, thereby allowing the source site owner or operator to provide this certification.

IV. Soil pH Testing Results

Describe the results of soil pH testing showing that the soil pH is within the range of 6.25 to 9.0 and attach any supporting documentation.

Number of pages attached: 2

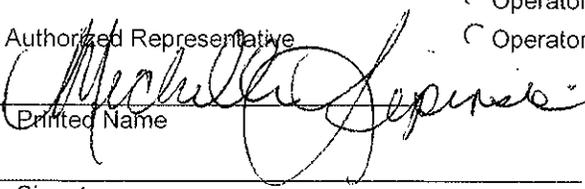
1 sample was collected and tested for pH. Results were within the range of 6.25 to 9.0 and are attached with a boring location plan.

V. Source Site Owner, Operator or Authorized Representative's Certification Statement and Signature

In accordance with the Illinois Environmental Protection Act [415 ILCS 5/22.51 or 22.51a] and 35 Ill. Adm. Code 1100.205(a), I Michelle Lipinski (owner, operator or authorized representative of source site) certify that this site is not a potentially impacted property and the soil is presumed to be uncontaminated soil. I also certify that the soil pH is within the range of 6.25 to 9.0. I further certify that the soil has not been removed from the site as part of a cleanup or removal of contaminants. Additionally, I certify that I am either the site owner or operator or a duly authorized representative of the site owner or site operator and am authorized to sign this form. Furthermore, I certify that all information submitted, including but not limited to, all attachments and other information, is to the best of my knowledge and belief, true, accurate and complete.

Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Illinois EPA commits a Class 4 felony. A second or subsequent offense after conviction is a Class 3 felony. (415 ILCS 5/44(h))

- Owner
- Owner's Duly Authorized Representative
- Operator
- Operator's Duly Authorized Representative

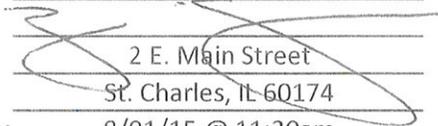
Michelle Lipinski
Printed Name

Signature

8/13/15
Date



ASTM D4972-01
Standard Test Method for pH of Soils

Project Number: G15.079
Project Name: Fox Glen Drive CCDD Testing
City, State: St. Charles, Illinois
Method Used: ASTM D4972-01 Method A
 Calcium Chloride Solution (0.01M)
pH Meter Mfr: Eutech and Oakton Instruments
Model # EcoTestr pH 2

Date: 13-Aug-15
Performed by: Blake Sloan
Title: Project Manager
Signature: 
Client Address: 2 E. Main Street
 St. Charles, IL 60174
Prior Calibration: 8/01/15 @ 11:30am
Calibration: 8/13/15 @ 9:15am

Location	Depth (ft)	Sample Type	Mass of Soil (g)	pH in Calcium Chloride Solution	pH in Distilled Water
Creek (approx. 50 ft. South of culvert)	0 - 5	Grab Sample	10	7.0	7.3



rubino
ENGINEERING INC.
665 Tollgate Rd. Unit H
Elgin, Illinois 60123

Project Name: Fox Glen Drive CCDD Testing
Project Location: Fox Glen Drive
 St. Charles, Illinois
 City of St. Charles
Client: City of St. Charles
Rubino Project # : G15.079

**Boring
Location
Plan**

PERMITS



DEPARTMENT OF THE ARMY
CHICAGO DISTRICT, CORPS OF ENGINEERS
111 NORTH CANAL STREET
CHICAGO, ILLINOIS 60606-7206

REPLY TO
ATTENTION OF:

Technical Services Division
Regulatory Branch
LRC-2012-132

July 9, 2012

SUBJECT: Proposed Woods of Fox Glen Creek Stabilization, Located South of Fox Glen Drive and East of Fox Glen Court, St. Charles, Kane County, Illinois (SW ¼ of Section 14 and SE ¼ of Section 15, T40N R8E)

Mark Koenen
City of St. Charles
200 Devereaux Way
Saint Charles, Illinois 60174

Dear Mr. Koenen:

The U.S. Army Corps of Engineers has made a favorable determination on your application for a Department of the Army individual permit. Two copies of your provisional permit for the above-referenced project are enclosed. The provisional permit is **NOT VALID** and does not authorize you to perform the proposed work. The provisional permit describes the work that will be authorized, and the General and Special Conditions which will be placed on your final Department of the Army (DA) permit, if Illinois Environmental Protection Agency's (IEPA) Section 401 Water Quality Certification consistency requirements are satisfied. By Federal law no DA permit can be issued until a Section 401 Water Quality Certification has been issued or has been waived by the IEPA. As of this date the IEPA has not issued a Section 401 Water Quality Certification for your proposed work. Please review the conditions before signing the permit.

You are hereby advised that the following options are available to you in your evaluation of the enclosed permit:

- 1) You may sign the permit, and return it to this office for final authorization. Your signature on the permit means that you accept the permit in its entirety, and waive all rights to appeal the permit, or its terms and conditions. If the terms and conditions of the permit are acceptable, please sign both copies on the line above the word "PERMITTEE" and return them to this office for counter-signature. Upon receipt, I will sign both copies and return one to you for your records. You are not authorized to do work until you receive your copy of the permit that has been signed by the Corps.
- 2) You may decline to sign the permit because you object to certain terms and conditions therein, and you may request that the permit be modified accordingly. You must outline your objections to the terms and conditions of the permit in a letter to the District Commander. Your objections must be received by the District Commander within 60 days of the date of this letter, or you will forfeit your right to request changes to the terms and conditions of the permit. Upon receipt of your letter, the District Commander will evaluate your objections, and may: (a) modify

the permit to address all of your concerns, or (b) modify the permit to address some of your objections, or (c) not modify the permit, having determined that the permit should be issued as previously written. In any of these three cases, the District Commander will send you a final permit for your reconsideration, as well a notification of appeal (NAP) form and a request for appeal (RFA) form. Should you decline the final proffered permit, you can appeal the declined permit under the Corps of Engineers Administrative Appeal Process by submitting the completed RFA form to the Division Engineer. The RFA must be received by the Division Commander within 60 days of the date of the NAP that was transmitted with the second proffered permit.

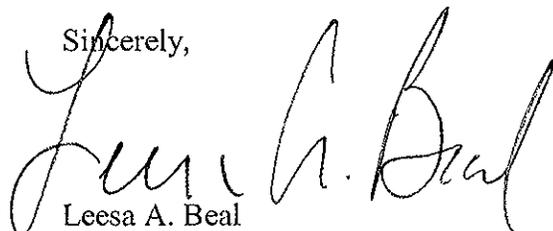
Under Federal regulations, no fee is required for permits issued to agencies or instrumentalities of Federal, state or local governments.

Conditions of the IEPA Section 401 Water Quality Certification will become conditions to the final DA permit. Should the IEPA's action on the required certification preclude validation of the provisional permit in its current form, a modification of the provisional permit will be evaluated and you will be notified as appropriate. Substantial changes may require a new permit evaluation process, including issuing a new public notice. If the IEPA denies the required Section 401 Water Quality Certification, then the DA permit is denied without prejudice. If you should subsequently obtain a Section 401 Water Quality Certification, you should contact this office to determine how to proceed with your permit application. If you have any questions concerning you IEPA Section 401 Water Quality Certification, please contact Mr. Dan Heacock at IEPA's Bureau of Water, by telephone at (217) 782-3362.

Please review the conditions before signing the permit. Your signature constitutes your specific agreement to the enclosed permit. Failure to meet any of the conditions may result in revocation of your permit. If the copies of the permit with your signature are not returned to this office within thirty (30) days of the date of this letter, your authorization will no longer be valid and the application will be considered withdrawn. If you wish to reinstate your permit request after the thirty (30) day time period, this office reserves the right to reevaluate your project, which may include the reissuance of a public notice.

This permit does not obviate your responsibility to obtain any required state or local approvals for this project. If you have any questions, please contact Ms. Kimberly Kubiak of my staff by telephone at 312-846-5541, or email at kimberly.j.kubiak@usace.army.mil.

Sincerely,



Leesa A. Beal
Chief, Regulatory Branch

Enclosures

Copy Furnished:

Illinois Environmental Protection Agency (Thad Faught)

City of St. Charles (Chris Tiedt)

Wills Burke Kelsey Associates, Ltd. (Pat Kelsey)



DEPARTMENT OF THE ARMY

PERMIT

PERMITTEE: Mark Koenen, City of St. Charles

APPLICATION: LRC-2012-132

ISSUING OFFICE: U.S. Army Corps of Engineers, Chicago District

DATE:

You are hereby authorized to perform work in accordance with the terms and conditions specified below.

Note: The term "you" and its derivatives, as used in this authorization, means the permittee or any future transferee. The term "this office" refers to the U.S. Army Corps of Engineers, Chicago District.

PROJECT DESCRIPTION: Woods of Fox Glen Creek Stabilization, as described in your notification and as shown on the plans titled, "Preliminary Engineering Plans for Woods of Fox Glen Creek Stabilization, City of St. Charles, St. Charles, Illinois, Project No: 10-0133", dated August 22, 2011, prepared by Wills Burke Kelsey Associates Ltd. No Mitigation is required.

PROJECT LOCATION: Located in the Woods of Fox Glen Subdivision, Fox Glen Creek, Located South of Fox Glen Drive and East of Fox Glen Court, St. Charles, Kane County, Illinois (SW ¼ of Section 14 and SE ¼ of Section 15, T40N R8E) 41.94783, -88.30102

GENERAL CONDITIONS:

1. The time limit for completing the authorized work ends on November 1, 2016. If you find that you need more time to complete the authorized activity(s), submit your request for a time extension to this office for consideration at least 60 days before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer,

you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. You shall comply with the water quality certification issued under Section 401 of the Clean Water Act by the Illinois Environmental Protection Agency for the project. Conditions of the certification are conditions of this authorization. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS: To ensure that the activity has minimal individual and cumulative impacts, the following special conditions are required:

1. This authorization is based on the materials submitted as part of application number LRC-2012-132. Failure to comply with the terms and conditions of this authorization may result in suspension and revocation of your authorization.

2. You shall undertake and complete the project as described in the plans titled, "Preliminary Engineering Plans for Woods of Fox Glen Creek Stabilization, City of St. Charles, St. Charles, Illinois, Project No: 10-0133", dated August 22, 2011, prepared by Wills Burke Kelsey Associates Ltd., including all relevant documentation to the project plans as proposed.

3. You shall obtain water quality certification under Section 401 of the Clean Water Act from the Illinois Environmental Protection Agency (IEPA) for your project. Work authorized herein may not commence until you provide evidence the IEPA has issued water quality certification.

4. This permit does not authorize temporarily stockpiling material within waters or wetlands of the US.

5. You shall fully implement the "Maintenance, and Monitoring Plan, Woods of Fox Glen Creek Stabilization, St. Charles Illinois" received June 2012, prepared by Wills Burke Kelsey Associates, Ltd., for the duration of the three-year management period. An annual monitoring report shall be submitted to this office by January 31st following the monitoring season each year.

6. This authorization is contingent upon implementing and maintaining soil erosion and sediment controls in a serviceable condition throughout the duration of the project. You shall comply with the Kane/DuPage Soil and Water Conservation District's (SWCD) written and verbal recommendations regarding the soil erosion and sediment control (SESC) plan and the installation and maintenance requirements of the SESC practices on-site.
 - a. You shall schedule a preconstruction meeting with the SWCD to discuss the SESC plan and the installation and maintenance requirements of the SESC practices on the site.
 - b. You shall notify the SWCD of any changes or modifications to the approved plan set. Field conditions during project construction may require the implementation of additional SESC measures. If you fail to implement corrective measures, this office may require more frequent site inspections to ensure the installed SESC measures are acceptable.
 - c. Prior to commencement of any in-stream work, you shall submit construction plans and a detailed narrative to the SWCD that disclose the contractor's preferred method of cofferdam and dewatering method. Work in the waterway shall NOT commence until the SWCD notifies you, in writing, that the plans have been approved.
7. You shall provide written notification to this office at least ten (10) days prior to the commencement of work indicating the start date and estimated end date of construction.
8. You are responsible for all work authorized herein and for ensuring that all contractors are aware of the terms and conditions of this authorization. A copy of this authorization must be present at the project site during all phases of construction.
9. You shall notify this office of any proposed modifications to the project, including revisions to any of the plans or documents cited in this authorization. You must receive approval from this office before work affected by the proposed modification is performed.
10. You shall ensure that any wetland areas created or preserved as mitigation for work authorized by this permit shall not be made subject to any future construction and/or fill activities, except for the purposes of enhancing or restoring the mitigation area associated with this permit. All plans are to be approved by this office prior to commencement of any work.
11. You shall notify this office prior to the transfer of this authorization and liabilities associated with compliance with its terms and conditions. The transferee must sign the authorization in the space provided and forward a copy of the authorization to this office.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this Authorization.

- a. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. The Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on the behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modifications, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in the reliance on the information you provided.

5. Reevaluation of Permit Decision. The office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this authorization.

PERMITTEE

Mark Koenen, City of St. Charles

DATE

LRC-2012-132

Corps Authorization Number

This authorization becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

For and on behalf of
Frederic A. Drummond, Jr.
Colonel, U.S. Army
District Commander

DATE

If the structures or work authorized by this authorization are still in existence at the time the property is transferred, the terms and conditions of this authorization will continue to be binding on the new owner(s) of the property. To validate the transfer of this authorization and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below. The document shall be attached to a copy of the permit and submitted to the Corps.

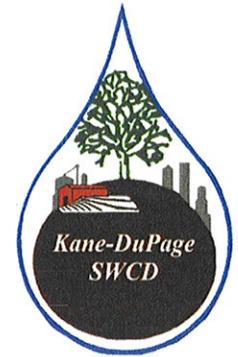
TRANSFEREE

DATE

ADDRESS

TELEPHONE

Kane – DuPage Soil & Water Conservation District



June 28, 2012

Patrick Kelsey, CPSS/SC
Wills Burke Kelsey Associates, Ltd.
116 West Main Street, Suite 201
St. Charles, IL 60174

Corps Number: LRC 2012 00 132
KDSWCD File: 12e44
Approved Plan Set Dated: 6/28/2012

Dear Mr. Kelsey:

I received your revised soil erosion and sedimentation control plan submittal for the Woods of Fox Glen Creek Stabilization project located in St. Charles, Illinois. Thank you for incorporating our comments into the plan, it will improve the quality of protection for the natural resources, both on and off site. This letter and a set of stamped plans located at the construction office on site, will serve to certify that the erosion and sediment control plans meet Technical Standards.

I will visit the site several times during the course of construction to assess compliance with the specifications and will be glad to address specific issues that may arise during the course of construction.

Sincerely,

A handwritten signature in blue ink, appearing to read "Candice Jacobs".

Candice Jacobs, CPESC
Resource Analyst
Kane-DuPage Soil and Water Conservation District

ECC: Kim Kubiak, USACE

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