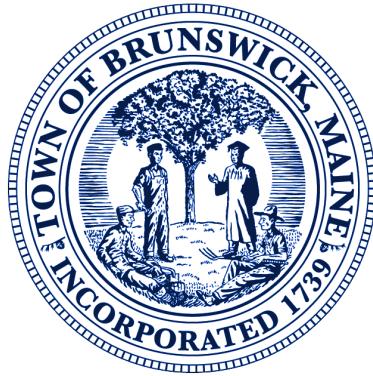


ENGINEERING DEPARTMENT



CONTRACT AND SPECIFICATIONS

**Old Bath Road Water Main Extension – Town of Brunswick**

**Dated: November 5, 2024**

**Mandatory Pre-Bid Meeting: December 3, 2024 at 2:00 PM**

**Bids Due: December 12, 2024 at 10:00 AM**

*Prepared by:*  
*Town of Brunswick*  
*Engineering Department*  
*85 Union Street*  
*Brunswick, Maine 04011*

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**NOTICE TO CONTRACTORS**  
**TOWN OF BRUNSWICK, MAINE**  
**Old Bath Road Water Main Extension – Town of Brunswick**

Sealed proposals for **Old Bath Road Water Main Extension – Town of Brunswick** shall be received by the office of the Town Engineer until **10:00 AM on December 12, 2024**, and at that time will be opened and read via a Zoom conference. A mandatory pre-bid conference will be held via Zoom at **2:00 PM on December 3** those wishing to attend the preconstruction meeting or bid opening must contact the Town Engineer at [TOB-Engineering@brunswickme.org](mailto:TOB-Engineering@brunswickme.org) to receive the Zoom log in.

**Old Bath Road Water Main Extension – Town of Brunswick**  
**SCOPE OF WORK**

The scope of work for this project includes furnishing and installing all materials, labor, and equipment necessary for installing 10,200 feet of 12" water main along Old Bath Road and 600 feet of 8" water main along Bay Bridge Road, a 6" service stub to Bay Bridge Estates, along with associated hydrants, valves, and fittings. All pipeline materials for the project shall be furnished by the Brunswick and Topsham Water District.

One year following completion of the water main installation, the selected contractor will be responsible for all materials, labor, and equipment necessary to reclaim and repave Old Bath Road and an overlay of Bay Bridge Road. **Water main installation and trench repair are to be completed by October 31, 2025. The reclaim and repave of Old Bath Road and overlay of Bay Bridge Road are to be completed by October 31, 2026.**

| <b>Road Repairs</b>                                       |                      |                    |                   |   |
|---|----------------------|--------------------|-------------------|---|
| <b>Location</b>   | <b>General Scope</b> | <b>Length (ft)</b> | <b>Width (ft)</b> | <b>Notes</b>  |
| Old Bath Road –<br>Maplewood Avenue to Bay Bridge<br>Road | Reclaim & Repave     | 10,200             | 24                | Full Depth Recycled<br>Pavement<br>2.5" 19mm HMA (base)<br>1.5" 12.5mm HMA<br>(surface) |
| Bay Bridge Road – Old Bath Road to<br>Beverly Drive       | Overlay              | 600                | 22                | 1.25" 12.5mm HMA  |

**GRANT REQUIREMENTS**

- Bids must include signed Federal Provision forms. This project will be funded in part through an EPA Community Grant and the American Rescue Plan Act (ARPA) under assistance agreement 21.027. Compliance with certain federal provisions is required. Additionally, Federal Minimum Wage Rates as determined by the U.S. Department of Labor under the Davis-Bacon Act apply to this project.
- The contractor must provide both a performance bond and a payment bond, each for 100% of the contract price.
- Bids will be evaluated based on the following selection criteria listed below. Contractors are required to supply supporting documentation for each of the selection criteria.

| Selection Criteria                                | Factor scoring weight |
|---|-----------------------|
| Experience with infrastructure project activities | 10%                   |
| Success in completing comparable projects         | 10%                   |
| Exerpeince and capacity of project team/personnel | 10%                   |
| Cost/price of proposal                            | 60%                   |
| References  | 10%                   |
| Total   | 100%                  |

- The contractor shall not discriminate based on race, color, natol origin, or sex in performing this contract and shall adhere to 40 CFR part 33 in awarding and administering subcontracts funded by EPA financial assistance. Failure to meet these requirements constitutes a material breach of the contract and may result in contract termination or other legal remedies.

Each bidder is required to state, in his/her proposal, his/her name and place of residence and the names of all persons or parties interested as principals with him/her, and that the proposal is made without any connection with any other bidder making any proposal for the same work, and that no person acting for or employed by the Town of Brunswick is directly or indirectly interested in the proposal or in any contract which may be entered into to which the proposal relates, or in any portion of the profits there from, except as provided by the Town Charter.

The proposal must be signed by the bidder with his/her full name and address and submitted to the Town Engineer electronically at [TOB-Engineering@brunswickme.org](mailto:TOB-Engineering@brunswickme.org) together with the bid security. The email shall be marked with the name and address of the bidder and entitled:

**“Old Bath Road Water Main Extension – Town of Brunswick”**

Any bidder may withdraw his/her Proposal prior to the scheduled time for the opening of Proposals upon presentation to the “Town Engineer” of a request, in writing, to do so. Any bidder who withdraws his/her Proposal within thirty (30) days after the actual opening thereof shall be considered to have abandoned his/her Proposal and the bid security accompanying the proposal will be forfeited to the Town of Brunswick. Any Proposal received after the scheduled opening time will not be considered. The Town reserves the right to waive any formality and may consider as informal any Proposal not prepared and submitted in accordance with these provisions. The Town reserves the right to accept any Proposal or reject any or all Proposals if it is deemed to be in the public interest to do so.

Proposals will not be considered unless they are accompanied by a bid security in the form of a bid bond of a security company satisfactory to the “Town Engineer” in the amount of one hundred (**100%**) percent of the total bid price, made out in favor of the Town of Brunswick. Projects with a bid price below \$100,000 do not require a bid bond. All bid securities will be released upon deliverance of the Performance Bond and the Labor

and Material Payment Bond and execution of the Contract, or, if no Contract award is made, within forty-five (45) days after the opening of the Proposals, unless forfeited as herein stipulated.

The Contract must be signed within two weeks, Saturdays, Sundays, and holidays excepted, after the date of notification to the bidder by the "Town Engineer" of the acceptance of his/her Proposal and readiness of the Contract to be signed. If the bidder fails or neglects, after such notification, to execute the Contract, the Town may determine that the Proposal has been abandoned; and, in such case, the bid security accompanying the Proposal will be forfeited to the Town of Brunswick.

A Performance Bond and a Labor and Material Payment Bond, preferably executed on AIA Bond Form Number A311 in an amount equal to the total Contract price, of a surety company satisfactory to the "Town Engineer", will be required of the successful bidder to insure completion of the work and the proper fulfillment of the conditions of the Contract. The total Contract price shall mean the total bid price as stated in the Proposal based on the estimated quantities of the various items of work.

The work is to be commenced within ten (10) days after the date of the Contract unless otherwise specified in the Specifications or directed by the "Town Engineer", in writing, and is to be continued with diligent regularity until its completion within the time limit specified.

All Proposals must be made on the blank Proposal Form bound in the Contract Documents, or as otherwise provided for in the Specifications. Bidders shall state prices for each separate item of work as called for in the Proposal Form. These prices are to cover the entire expenses incidental to the completion of the work in full conformity with the Contract Documents.

The prices must be stated in figures for all bid items. Proposals which do not contain prices for all items which are called for or which otherwise are not in conformity with this Notice may be rejected.

Each bidder shall make his/her Proposal from his/her own examinations and estimates, and shall not hold the Town, its agents or employees responsible for, or bound by, any schedule, estimate, sounding, boring, or any plan of any thereof, and shall, if any error in any plan, drawing specifications or direction relating to anything to be done under this Contract comes to his/her knowledge, report it at once, in writing, to the Town Engineer.

All materials and labor required to complete the work shall be supplied by the Contractor unless otherwise provided for in the Supplemental Specifications. The cost and expense of all the necessary materials, labor, tools and equipment required to complete the work shall be included in the prices stated in the Proposal.

All questions by prospective bidders pertaining to the Contract Documents, Plans and Specifications must be received, in writing, by the Engineer, at least five (5) days before the date set for the opening of the Proposals. Any questions which, in the opinion of the Engineer, require interpretation, will be sent by email, with the interpretation, in the form of a numbered Addendum, to each person or firm who has attended the pre-bid meeting, not later than three (3) days prior to the scheduled opening of the Proposals. Bidders shall acknowledge receipt of all Addenda in the space provided therefore in the Proposal Form, whether the Addenda are in response to questions or otherwise issued by the Town.

The Supplemental Specifications and the Contract Plans delineate the particular project to which the Contract Documents pertain. Should any discrepancy be found to exist between the Supplemental Specifications and the

Standard Specifications and/or the Contract Plans, the Supplemental Specifications and/or Contract Plans shall govern.

If the Bid Price of any or several bid items submitted with this Proposal appear to be extremely low or high, compared to the actual cost of performing the work, the Bidder may be asked to explain, in writing, how the work in question is to be performed at the price or prices bid before a decision is made by the Town to award a Contract or reject the Bid.

Proposals will be considered irregular and will be rejected for the following reasons:

- (a) If the Proposal is on a form other than that furnished by the Town or if the form is altered in any way.
- (b) If there are unauthorized additions, conditional or alternate bids or irregularities of any kind which may make the Proposal incomplete, indefinite or ambiguous as to its meaning.
- (c) If the Bidder adds any provisions reserving the right to accept or reject an award or to enter into a Contract pursuant to an award.
- (d) If the Proposal does not contain a unit price for each pay item listed unless otherwise specified.
- (e) If any of the bid prices are unbalanced, or do not reflect the actual cost required to

Perform the work, as outlined in the Plans and Specifications.

**The Town reserves the right to accept or reject any bid, to waive any formalities or informalities in the bidding process, and to award the bid deemed to be in the best interest of the Town.**

## PROPOSAL

### TOWN OF BRUNSWICK, MAINE Old Bath Road Water Main Extension – Town of Brunswick

To: Town Engineer

Town Hall, Brunswick, Maine

The undersigned hereby declares that he/she has carefully examined the location of the proposed work, the proposed Contract Form and the Contract Documents therein referred to and that he/she proposes and agrees, if this Proposal is accepted, that he/she will contract with the Town of Brunswick, by its Town Manager, to provide all machinery, tools, labor, equipment and other means of construction and to do all the work and furnish all the materials, except those specified in the Specifications to be furnished by the Town, necessary to complete the work in the manner and time therein prescribed, in accordance with the conditions and requirements set forth in the Contract Documents and the requirements of the Engineer as provided for therein; and that he/she will accept in full payment therefore the following sums to wit:

**Bidders are required to submit completed bid forms.**

#### Base Bid 1: Road Reclaim and Repave

| ITEM NO. | ITEM DESCRIPTION  | EST QTY | PAY UNIT | UNIT PRICE | BID AMOUNT |
|----------|---|---------|----------|------------|------------|
| 202.203  | Pavement Butt Joint   | 40      | SY       | \$ _____   | \$ _____   |
| 204.201  | Add Shoulder Aggregate to Existing Shoulder                 | 4,400   | SY       |            |            |
| 307.32   | Full Depth Recycled Pavement (Untreated Mainline Travelway) | 27,200  | SY       | \$ _____   | \$ _____   |
| 403.207  | Hot Mix Asphalt – 19.00mm                                   | 3,700   | T        | \$ _____   | \$ _____   |
| 403.209  | Hot Mix Asphalt – Hand Placed                               | 40      | T        | \$ _____   | \$ _____   |
| 403.213  | Hot Mix Asphalt – 12.5mm Surface                            | 2,300   | T        | \$ _____   | \$ _____   |
| 409.15   | Bituminous Tack Coat. Applied                               | 700     | G        | \$ _____   | \$ _____   |
| 604.18   | Adjust Manhole of Catch Basin to Grade                      | 12      | EA       | \$ _____   | \$ _____   |
| 627.711  | White or Yellow Pavement Marking Line                       | 36,300  | LF       | \$ _____   | \$ _____   |
| 629.05   | Hand Labor, Straight Time                                   | 20      | HR       | \$ _____   | \$ _____   |
| 631.12   | All Purpose Excavator (including operator)                  | 10      | HR       | \$ _____   | \$ _____   |
| 631.172  | Truck-Large (including operator)                            | 10      | HR       | \$ _____   | \$ _____   |
| 652.33   | Drum  | 50      | EA       | \$ _____   | \$ _____   |

|        |                           |     |    |                         |          |
|--------|---------------------------|-----|----|-------------------------|----------|
| 652.34 | Cone                      | 50  | EA | \$ _____                | \$ _____ |
| 652.35 | Construction Signs        | 150 | SF | \$ _____                | \$ _____ |
| 652.38 | Flaggers                  | 300 | HR | \$ _____                | \$ _____ |
| 652.39 | Work Zone Traffic Control | 1   | LS | \$ _____                | \$ _____ |
| 659.1  | Mobilization              | 1   | LS | \$ _____                | \$ _____ |
|        |                           |     |    | <b>Total Base Bid 1</b> | \$ _____ |

**Base Bid 2: Water main Installation**

| ITEM NO. | ITEM DESCRIPTION   | EST QTY          | PAY UNIT | UNIT PRICE              | BID AMOUNT |
|----------|--|------------------|----------|-------------------------|------------|
| 1.01     | 12-inch and smaller DI water main  | 10,840           | LF       | \$ _____                | \$ _____   |
| 2.01     | 6-inch DI service  | 1                | EA       | \$ _____                | \$ _____   |
| 3.01     | Hydrant assembly   | 14               | EA       | \$ _____                | \$ _____   |
| 4.01     | HMA – 19.0 mm  | 2,130            | Ton      | \$ _____                | \$ _____   |
| 4.02     | HMA – 12.5 mm  | 45               | Ton      | \$ _____                | \$ _____   |
| 5.01     | Removal and disposal of ledge and replacement with suitable materials as specified                     | 100 <sup>1</sup> | CY       | \$ _____                | \$ _____   |
| 6.01     | Removal and disposal of unsuitable subgrade soils and replacement with suitable materials as specified | 100 <sup>1</sup> | CY       | \$ _____                | \$ _____   |
|          |  |                  |          | <b>Total Base Bid 2</b> | \$ _____   |

(1) Indeterminate quantities assumed for comparison of bids. Quantities are not guaranteed. Payment will be based on actual quantities constructed.

**Total Base Bid 1 and Base Bid 2 \$ \_\_\_\_\_**

The undersigned acknowledges the receipt of Addenda numbered \_\_\_\_\_

further agrees that, after notification by the Town Engineer of the acceptance of his/her Proposal and the readiness of the Contract for signature, he/she will execute the Contract and furnish the required Bonds within ten (10) days, Saturdays, Sundays and Holidays, excepted, and that he/she will commence the work within ten (10) days after the execution of the Contract and deliverance of the Bonds, unless otherwise specified in the Supplemental Specifications or directed by the Director of Public Works in writing and that he/she will prosecute the work to its completion within the time limit specified in the Supplemental Specifications.

The undersigned hereby further declares that the only persons or parties interested in this Proposal, as principals, are named below; that the Proposal is made without any connection with any other person or party making any proposal for the same work; and that no person acting for or employed by the Town of Brunswick is directly or indirectly interested in this Proposal or in any Contract which may be made under it or in profits expected to arise therefrom, except as provided by the Town Charter. The full names and addresses of all persons and parties interested in this Proposal, as principals, are as follows: (Give first and last names in full, and in the case of a Corporation, give names and addresses of President, Treasurer, and Manager; and in case of a Partnership, give names and addresses of members):

Accompanying this Proposal is a bid security deposit in the amount of (\$\_\_\_\_\_ ) which is to become the property of the Town of Brunswick, by forfeiture, if the undersigned fails, after notification by the Town Engineer of the acceptance of his/her Proposal, to execute a contract with the Town and furnish the required Bonds within the time agreed to herein; or, in case the undersigned withdraws his/her Proposal within thirty (30) days after the opening of the Proposals. Otherwise, the deposit will be returned to the undersigned in accordance with the provisions in the Notice to Contractors.

|                         |  |
|-------------------------|--|
| Company Name:           |  |
| Address:                |  |
| Signature:              |  |
| Printed Name and Title: |  |
| Firm's IRS ID#:         |  |
| Date:                   |  |
| Telephone Number:       |  |
| Fax #:                  |  |
| Email Address:          |  |

## CONTRACT

### **TOWN OF BRUNSWICK, MAINE Old Bath Road Water Main Extension – Town of Brunswick**

This Agreement, made and entered into the date noted below in the year Two Thousand and Twenty-four, by and between the Town of Brunswick, Maine, a municipal corporation existing under the laws of the State of Maine, hereinafter called "Owner", by its Town Manager, party of the first part, and

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Hereinafter called "Contractor", with legal address and principal place of business at

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Party of the second part:

WITNESSETH:

That the parties to these presents, each in consideration of the covenant and agreements on the part of the other herein contained, have covenanted and agreed and do hereby covenant and agree, the party of the first part for itself and the party of the second part for himself/herself and his/her heirs, executors, Managers and assigns under the penalties expressed in the Performance Bond and the Labor and Material Payment Bond as follows:

That this Agreement includes the following documents hereinafter referred to as Contract Documents, which are attached hereto and incorporated by reference into this Agreement:

1. Notice to Contractors
2. Proposal
3. Contract
4. Notice of Award
5. Notice to Proceed
6. Supplemental Specifications
7. Special Provisions
8. Contract Plans, if any
9. Addenda, if any
10. Federal Conditions, if any

That the party of the second part will do all the work, furnish all the materials, tools and equipment, except as otherwise specified, and do everything necessary and proper for performing and faithfully completing the work required by the Contract Documents in strict conformity with the provisions of the Contract Documents within the time specified in the Supplemental Specifications. That the party of the first part will pay the party of the second part as full compensation for well and faithfully completing the whole work according to the Contract

**Base Bid 1: Road Reconstruction**

| ITEM NO. | ITEM DESCRIPTION  | EST QTY | PAY UNIT | UNIT PRICE              | BID AMOUNT |
|----------|---|---------|----------|-------------------------|------------|
| 202.203  | Pavement Butt Joint   | 40      | SY       | \$ _____                | \$ _____   |
| 204.201  | Add Shoulder Aggregate to Existing Shoulder                 | 4,400   | SY       |                         |            |
| 307.32   | Full Depth Recycled Pavement (Untreated Mainline Travelway) | 27,200  | SY       | \$ _____                | \$ _____   |
| 403.207  | Hot Mix Asphalt – 19.00mm                                   | 3,700   | T        | \$ _____                | \$ _____   |
| 403.209  | Hot Mix Asphalt – Hand Placed                               | 40      | T        | \$ _____                | \$ _____   |
| 403.213  | Hot Mix Asphalt – 12.5mm Surface                            | 2,300   | T        | \$ _____                | \$ _____   |
| 409.15   | Bituminous Tack Coat. Applied                               | 700     | G        | \$ _____                | \$ _____   |
| 604.18   | Adjust Manhole of Catch Basin to Grade                      | 12      | EA       | \$ _____                | \$ _____   |
| 627.711  | White or Yellow Pavement Marking Line                       | 36,300  | LF       | \$ _____                | \$ _____   |
| 629.05   | Hand Labor, Straight Time                                   | 20      | HR       | \$ _____                | \$ _____   |
| 631.12   | All Purpose Excavator (including operator)                  | 10      | HR       | \$ _____                | \$ _____   |
| 631.172  | Truck-Large (including operator)                            | 10      | HR       | \$ _____                | \$ _____   |
| 652.33   | Drum  | 50      | EA       | \$ _____                | \$ _____   |
| 652.34   | Cone  | 50      | EA       | \$ _____                | \$ _____   |
| 652.35   | Construction Signs  | 150     | SF       | \$ _____                | \$ _____   |
| 652.38   | Flaggers  | 300     | HR       | \$ _____                | \$ _____   |
| 652.39   | Work Zone Traffic Control                                   | 1       | LS       | \$ _____                | \$ _____   |
| 659.1    | Mobilization  | 1       | LS       | \$ _____                | \$ _____   |
|          |   |         |          | <b>Total Base Bid 1</b> | \$ _____   |

**Base Bid 2: Water main Installation**

| ITEM NO. | ITEM DESCRIPTION   | EST QTY          | PAY UNIT | UNIT PRICE              | BID AMOUNT |
|----------|--|------------------|----------|-------------------------|------------|
| 1.01     | 12-inch and smaller DI water main  | 10,840           | LF       | \$ _____                | \$ _____   |
| 2.01     | 6-inch DI service  | 1                | EA       | \$ _____                | \$ _____   |
| 3.01     | Hydrant assembly   | 14               | EA       | \$ _____                | \$ _____   |
| 4.01     | HMA – 19.0 mm  | 2,130            | Ton      | \$ _____                | \$ _____   |
| 4.02     | HMA – 12.5 mm  | 45               | Ton      | \$ _____                | \$ _____   |
| 5.01     | Removal and disposal of ledge and replacement with suitable materials as specified                     | 100 <sup>1</sup> | CY       | \$ _____                | \$ _____   |
| 6.01     | Removal and disposal of unsuitable subgrade soils and replacement with suitable materials as specified | 100 <sup>1</sup> | CY       | \$ _____                | \$ _____   |
|          |  |                  |          | <b>Total Base Bid 2</b> | \$ _____   |

(1) Indeterminate quantities assumed for comparison of bids. Quantities are not guaranteed. Payment will be based on actual quantities constructed.

**Total Base Bid 1 and Base Bid 2** \$ \_\_\_\_\_

The party of the second part represents and warrants;

- (a) That he/she is financially solvent; and is experienced in and competent to perform the work; and is able to furnish the plant, materials, supplies, labor, and equipment to be furnished by him/her; and;
- (b) That he/she is familiar with all Federal, State, Municipal and Departmental laws, ordinances and regulations which may in any way affect the work or those employed therein; and;
- (c) That such temporary and permanent work required by the Contract Documents to be done by him/her can be satisfactorily constructed and used for the purposes for which it is intended; and that such construction will not injure any person or damage any property other than that damage caused by the construction; and;
- (d) That he/she has carefully examined the Contract Documents and the site of the work; and from his/her own investigation has satisfied himself/herself as to the nature and location of the work, the character, quality and quantity of surface and subsurface material likely to be encountered, the character of equipment and other

facilities needed for the performance of the work, the general and local conditions; and all the other materials and conditions which may in any way affect the work or its performance; and:

(e) That he/she shall not discriminate based on race, color, national origin, or sex in performing this contract and shall adhere to 40 CFR part 33 in awarding and administering subcontracts funded by EPA financial assistance. Failure to meet these requirements constitutes a material breach of the contract and may result in contract termination or other legal remedies.

IN WITNESS WHEREOF, the said Town, by its Town Manager and the said

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by its \_\_\_\_\_ thereunto duly authorized have hereunto set their hands and seals the day and year below written.

Signed in the presence of:

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Witness

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

Julia Henze, Interim Town Manager

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

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Witness

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

Contractor

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

## NOTICE OF AWARD

To:

**Bid: Old Bath Road Water Main Extension – Town of Brunswick**

The Town of Brunswick has considered the BID submitted by you for the above-described WORK in response to its Advertisement for Bids dated **November 5, 2024** and Information for Bidders.

You are hereby notified that your BID has been accepted for all items for a total award of \$ \_\_\_\_\_. You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance Security and certificates of insurance within ten (10) days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said Town of Brunswick will be entitled to consider all your rights arising out of the Town acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The Town will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of the NOTICE OF AWARD to the Town of Brunswick.

Dated this: \_\_\_\_\_

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

## ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By (firm) \_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 2024

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

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

**NOTICE TO PROCEED**

To:

**Bid : Old Bath Road Water Main Extension – Town of Brunswick**

You are hereby notified to proceed with the work entitled **Old Bath Road Water Main Extension – Town of Brunswick**, together with all necessary appurtenances, and to diligently prosecute the work.

You are instructed to immediately take the necessary steps for execution of the work within ten (10) calendar days (or other start time as specified) from the date of this Notice to Proceed. The water main work is to be completed by **October 31, 2025** or otherwise stated in the Contract.

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

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

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

**SUPPLEMENTAL SPECIFICATIONS**  
**Old Bath Road Water Main Extension – Town of Brunswick**

**DEFINITIONS**

*Contract Documents:* Whenever the term Contract Documents, or a pronoun in its stead, is used, it shall mean and include, but not necessarily limited to, these items: The Notice to Contractors, the Proposal, the Contract, the Supplemental Specifications, the Standard Specifications, the Contract Plans, any other documents included with these Specifications and attached thereto, and any Addenda to the above issued prior to the date of this Contract.

*Contract Plans:* Whenever the term Contract Plans, or a pronoun in their stead, is used, it shall mean and include all drawings, graphic representations, diagrams and any notes or explanations thereon supplied to the Contractor before the date of this Contract.

*Contractor:* Whenever the term Contractor, or a pronoun in its stead, is used, it shall mean the person or persons or co-partnership or corporation or other entity which has entered into this agreement or their legal representative.

*Director of Public Works or Director:* Whenever the term Director of Public Works, Director or a pronoun, in their stead is used, it shall mean the Director of Public Works of the Town of Brunswick or his/her assistants or inspectors acting under him/her, limited to the particular duties entrusted to them.

*Lump Sum Bid Price:* Whenever the term Lump Sum Bid Price, Lump Sum Bid, Lump Sum or a pronoun in their stead is used, it shall mean the amount of money mutually agreed to by the Contractor to furnish the labor, machinery, tools, apparatus and other means of construction and for doing all the work and furnishing all material called for by the Contract Documents except rock excavation and those items specifically stated as being considered extra work or for which unit prices have been established in the Contract and Proposal.

*MUTCD:* Whenever the abbreviation MUTCD is used, it shall mean the Manual on Uniform Traffic Control Devices; and, unless otherwise stated, refer to the latest revision of the particular standard.

*Owner:* Whenever the term Owner, or a pronoun in its stead is used, it shall mean the Town of Brunswick, acting through its designated officials and/or employees.

*Specification:* Whenever the term Specifications or a pronoun in its stead is used, it shall mean and include the Standard Specifications as herein set forth and any Supplemental Specifications included in the Contract Documents.

*Town Engineer or Engineer:* Whenever the term Town Engineer, or a pronoun in its stead, is used, it shall mean the Town Engineer of the Town of Brunswick or his/her assistants or inspector acting under him/her or his/her duly authorized representatives acting for him/her, limited to the particular duties entrusted to them.

*Unit Bid Price:* Whenever the term Unit Bid Price, Unit bid, Unit Price or a pronoun in their stead is used, it shall mean the amount of money mutually agreed to by the Contractor and the Town as full payment to the Contractor for furnishing all necessary labor, materials and equipment (except that which is specifically excluded in the Supplemental and Standard Specifications and Contract Plans) necessary to do one unit of work,

i.e., the unit price for one cubic yard of excavation multiplied by the actual number of cubic yards excavated, yields the total payment for the work done.

### **TIME LIMIT**

The work outlined in these specifications shall be complete by the date specified below. The Contractor shall be aware that the work to be done will not necessarily be continuous and that the Contractor shall perform the work in accordance with the requirements of the Town as established from time to time throughout the progress of the work.

No work shall commence prior to **May 1, 2024** unless previously approved by the Town Engineer.

All work including final cleanup shall be completed by **October 31, 2024** unless otherwise stated in the Contract.

### **INSURANCE AND LIABILITY**

The Contractor shall take all responsibility of the work and take all precautions for preventing injuries to persons and property in or about the work; shall bear all losses resulting to him/her on account of the amount or character of the work or because the nature of the land in or on which the work is done is different from what was estimated or expected or on account of the weather, elements or other cause; and he/she shall assume the defense of and indemnify and save harmless the Town and its officers, agents and servants from all claims relating to labor and materials furnished for the work; to inventions, patents and patent rights used in doing the work; to injuries to any person or corporation received or sustained by or from the Contractor and his/her employees in doing the work, or in consequence of any improper materials, implements or labor used therein; and to any act, omission or neglect of the Contractor and his/her employees therein.

The Contractor shall furnish proof of coverage with adequate insurance of the types and to the limits specified below naming the Town of Brunswick as additional insured. Certificate of such insurance shall be filed with the Director of Budget/Purchasing for his/her approval before permission to commence work will be granted.

### **INSURANCE REQUIREMENTS**

The OWNER shall indemnify and hold harmless the CONTRACTOR, its officers, agents and employees from claims, suits or liabilities resulting from the negligence of the OWNER, its officers, agents and employees. The CONTRACTOR shall indemnify and hold harmless the OWNER its officers, agents and employees from claims, suits or liabilities resulting from the negligence of the CONTRACTOR, its officers, agents and employees.

This obligation to indemnify shall not waive any defense immunity or limitation of liability, which may be available to the OWNER, its officers, agents or employees, under the Maine Tort Claims Act pursuant to the provisions of 14 MRSA Section 8101 et seq. or any other privileges or immunities as may be provided by law.

The Contractor and Subcontractors shall purchase and maintain such liability and other insurance. The limits of liability shall provide coverage not less than the following amounts, or greater where required by law:

*A. Worker's Compensation:*

|     |                       |             |
|-----|-----------------------|-------------|
| (1) | Worker's Compensation | Statutory   |
| (2) | Employer's Liability  | \$1,000,000 |

*B. Comprehensive General Liability including Operations/Premises, Contractor's Protective, Products/Completed Operations Liability and Personal Injury Liability:*

|     |                 |             |                  |
|-----|-----------------|-------------|------------------|
| (1) | Bodily Injury:  |             |                  |
|     |                 | \$1,000,000 | Each Occurrence  |
|     |                 | \$2,000,000 | Annual Aggregate |
| (2) | Property Damage |             |                  |
|     |                 | \$1,000,000 | Each Occurrence  |
|     |                 | \$2,000,000 | Annual Aggregate |

Property Damage Liability insurance to include coverage for Explosion, Collapse, and Underground Coverage. Property Damage Liability insurance shall provide coverage for property in the Care, Custody, and Control of the insured.

|     |                 |             |                  |
|-----|-----------------|-------------|------------------|
| (3) | Personal Injury |             |                  |
|     |                 | \$1,000,000 | Each Occurrence  |
|     |                 | \$2,000,000 | Annual Aggregate |

Personal injury coverage to have employment exclusion deleted.

*C. Comprehensive Automobile Liability including owned, hired and non-owned vehicles:*

\$1,000,000      Combined Single Limit

*D. Umbrella or Excess Liability Insurance Coverage*

\$2,000,000      Each Occurrence  
\$4,000,000      Aggregate

*E. Work Site and Materials*

Contractor shall provide physical damage coverage for work and materials stored at the site, off-site and in-transit. Coverage shall be for the full replacement cost thereof.

All the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by CONTRACTOR will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least thirty days' prior written notice has been given to OWNER by certified mail. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage, the insurer will have no rights of recovery against any of the parties named as insured or additional insured, and if the insurers require separate waiver forms to be signed by ENGINEER or ENGINEER's consultant OWNER will obtain the same, and if such waiver forms are required of any Subcontractor, CONTRACTOR will obtain the same.

If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with this Article on the basis of its not complying with the Contract Documents, OWNER will notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to OWNER in accordance with paragraph this contract. CONTRACTOR will provide such additional information in respect of insurance provided by him as OWNER may reasonably request.



## **LAWS AND REGULATIONS**

The Contractor shall keep himself/herself informed of all existing and future State and Federal laws and Municipal ordinances and regulations which in any way affect those engaged or employed in the work, or the materials used in the work; or in any way affect the conduct of the work and of all orders and decrees of bodies of tribunals having any jurisdiction is discovered in the Plans or Specifications or Contract for this work in relation to any such law, ordinance, regulation, order or decree, he/she shall forthwith report the same to the Director in writing. He/she shall at all times himself/herself observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the Town and its officers and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by himself/herself or his/her employees.

## **PERMITS**

The Contractor shall, at his/her own expense, obtain all necessary permits from the County, Municipal or other public authorities, shall give all notices required by law or ordinances; and shall post all bonds and pay fees and charges incident to the due and lawful prosecution of the work covered by this Contract. Fees associated with street opening permits and obstruction permits on Town projects shall be waived.

## **DIRECTIONS AND EXPLANATIONS, CORRECTIONS OF ERRORS**

The Plans and Specifications are understood to be explanatory of each other, but should any discrepancy appear or any misunderstanding arise as to the import of anything contained in either of them, the parties hereto further agree that the explanation and decision of the Engineer shall be final and binding on the Contractor; and all directions or explanations required or necessary to complete any of the provisions of this Contract and these Specifications and give them due effect shall be given by the Engineer. Correction of any error in the Plans or Specifications may be made by the Engineer, when such correction is necessary for the proper fulfillment of the intention of such Plans or Specifications, the effect of such correction to date from the time that the Engineer gives due notice in writing to the Contractor.

## **DUTY TO NOTIFY ENGINEER IF AMBIGUITIES DISCOVERED**

The Contractor shall not take advantage of any ambiguity, error, omission, conflict, or discrepancy ("ambiguity, etc.") contained in the Plans and Specifications that may significantly affect the cost, quality, conformity, or timeliness of the work. If the Contractor discovers any such ambiguity, etc., for which the Contractor may seek adjustments to compensation, time, or other Contract requirements, the Contractor shall provide a written notice stating the nature of the ambiguity, etc. within forty-eight (48) hours of discovering or being notified of the ambiguity and before performing any work related to the ambiguity, etc., as provided in Early Negotiation below. Failure to provide such written notice in compliance with the Contract shall constitute a waiver of all claims related to the ambiguity, etc.

## **EARLY NEGOTIATION**

A. Notice Required: When the Contractor becomes aware of facts or circumstances that may cause the Contractor to seek additional compensation, time, or any other change in the requirements of the Plans and Specifications ("Issue"), then the Contractor shall notify the Engineer in writing within forty-eight (48) hours of

identification of the issue and at least 48 hours before commencing any part of the Work relating to the Issue. The notice must describe the basic nature and extent of the Issue.

Such notice may be verbal only if confirmed in writing in one of the two following ways: (A) if a Progress Meeting is held within fourteen (14) days of the date that the Issue became known, such Notice may be confirmed with an entry in the Progress Meeting minutes. Such entry must describe the basic nature and extent of the Issue. (B) Otherwise, the Contractor shall confirm a verbal notice by delivering to the Engineer, within fourteen (14) days of the date the Issue arose, a Written Notice that describes the basic nature and extent of the Issue.

The written notice or confirmation will be known as a "Notice of Issue for Consideration". The Contractor will not be entitled to any additional compensation, time, or any other change to the requirements of the Plans and Specifications without a timely Notice of Issue for Consideration.

B. Negotiation: When the Engineer receives the Notice of an Issue for Consideration conforming to (A) above, *Notice Required*, the Engineer and the Contractor will negotiate in good faith to attempt to resolve the Issue. Any resolution will be noted in the Progress Meeting minutes or confirmed otherwise in writing by the Engineer. Any changes to the Plans and Specifications that affect compensation, time, quality, or other requirements of the Plans and Specifications shall be by written Change Order.

#### **ALTERATIONS**

It is further agreed that the Engineer may make alterations in the line, grade, form, position, dimension or material of the work herein contemplated, or any part thereof, either before or after the commencement of the work; and that the Engineer may at any time, order an alterations increase in the amount of work. Such increase shall be paid for according to the quantity actually done as extra work as provided for in *Extra Work*, Below. If such alterations diminish the quantity of work to be done, they shall not constitute a claim by the Contractor for damages or for anticipated profits on the work dispensed with and payment will be reduced in an amount determined as provided for in *Reduction of Work*, below.

#### **EXTRA WORK**

The Town of Brunswick reserves the right to add portions of the work required under this Contract, using the unit prices established in the proposal. The Town will determine if all work outlined in the plans or portions thereof shall be built under this Contract prior to the Contact signing.

The term Extra Work as used herein refers to and includes work required by the Town which, in the judgment of the Town Engineer, involves changes in or additions to that are required by the Plans and Specifications; provided, however, such changes or additions do not result from the fault of the Contractor.

The Contractor shall do any extra work when and as ordered in writing by the Engineer or his/her agents specially authorized thereto in writing, and shall, when requested by the Engineer so to do, furnish itemized statements of cost of the extra work ordered and give the Engineer access to the accounts, bills and vouchers relating thereto. If the Contractor claims compensation for extra work not ordered as aforesaid, or for any damage sustained, he/she shall, within one week after the beginning of any such work or of the sustaining of any such damage, make a written statement to the Engineer of the nature of the work performed or damage sustained and shall, on or before the fifteenth (15th) day of the month succeeding that in which any such extra work shall have been done or any such damage sustained, file with the Engineer an itemized statement of the

details and amount of such work or damage; and unless such statements shall be made as so required, his/her claim for compensation shall be forfeited and invalid and he/she shall not be entitled to payment on account of such work or damage. The determination of the Engineer shall be final upon all questions of the amount and value of extra work. If a unit price does not exist, payment for extra work will be actual cost plus fifteen (15%) per cent. For work performed by subcontractors, payment shall be the subcontractor's actual cost plus 10%, plus an additional 5% for the Contractor's oversight. No allowance will be made for overhead costs.

#### **REDUCTION OF WORK**

The Town of Brunswick reserves the right to delete portions of the work required under this Contract, using the unit prices established in the Proposal. The Town will determine if all work outlined in the Plans or portions thereof shall be built under this Contract prior to the Contract signing.

The Contractor shall omit and not perform any portion of the work required by the Contract Documents when ordered in writing by the Town Engineer or his/her agents specially authorized thereto in writing. If no unit price exists, it will be an estimate to be made by the Director and the Engineer. Their estimate will be final and binding. These reductions shall not constitute a claim by the Contractor for damage or for anticipated profit on the work dispensed with.

#### **DISPUTE RESOLUTION COSTS AND EXPENSES:**

In the event of any dispute between or involving the Town of Brunswick and Contractor, whether resolved by arbitration, litigation or some other mechanism of dispute resolution, in the event that the Town shall be a prevailing party, Contractor shall reimburse the Town for its attorney's fee and costs reasonably incurred in connection with the resolution of the dispute.

#### **ESTIMATES AND PAYMENTS**

The Engineer will, each month, make an approximate estimate of the amount of work done since the last preceding estimate and of the value thereof, and upon such estimate being made, the Town will pay to the Contractor ninety (90%) per cent of the estimate; provided, however, that no such estimate or payment shall be required to be made when, in the judgment of the Engineer, the total value of the work done since the last estimate or payment amounts to less than three hundred (\$1,000.00) dollars. Payment may at any time be withheld if the work is not proceeding in accordance with the provisions of this Contract. The Engineer may, if he/she deems it expedient so to do, cause estimates to be made more frequently than once in each month, and he/she may approve payments to be made more frequently to the Contractor. The Engineer may at his/her option retain, temporarily or permanently, a smaller amount than aforesaid, and may approve payment to the Contractor, either temporarily or permanently from time to time during the progress of the work, of such portion of the retained amount as he/she may deem prudent. The Town, may keep any money which would otherwise be payable at any time hereunder, and apply the same, or so much as may be necessary therefore, to the payment of any expenses, losses, or damage incurred by the Town and determined as herein; and may retain, until all claims are settled, so much of such money as the Director shall be of the opinion will be required to settle all claims against the Town, its officers, agents or servants.

#### **FINAL ESTIMATE AND PAYMENT**

It is further mutually agreed that whenever, in the opinion of the Engineer and the Director, the Contractor shall have completely performed all the work embraced in this Contract, the Engineer shall proceed with all reasonable diligence to measure the work and shall make out the final estimate for the same and shall certify the same in writing; and his/her certificate shall state the whole amount of the payments previously paid and the amount retained in all previous estimates. Within the term of thirty (30) days after the date of such final estimate, the Town will pay to the said Contractor the amount due. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

Provided that nothing herein contained shall be construed to affect the right of the Town by its Town Engineer hereby reserved, to reject the whole or any portion of the aforesaid work should the said certificate or certificates be found or known to be inconsistent with the terms of this Agreement or otherwise improperly given.

#### **LAST PAYMENT TO TERMINATE LIABILITY OF TOWN**

No person or corporation other than the signer of this Contract as Contractor now has any interest hereunder, and no claim shall be made or be valid; and neither the Town, nor any member or agent thereof, shall be liable for, or be held to pay any money, except as provided in the Standard Specifications and in the Contract. The Acceptance by the Contractor of the last payment aforesaid shall operate as and shall be a release to the Town, and every member or agent thereof, from all claim or liability to the Contractor for anything done or furnished for, or relating to the work, or for any act or neglect of the Town, or of any person relating to or affecting the work, except the claim against the Town for the

#### **SUB-CONTRACTING OF WORK**

The sub-contracting of work on this project will not be allowed unless approved in writing by the Town Engineer.

#### **PRECONSTRUCTION CONFERENCE**

A preconstruction conference will be held at 85 Union Street, Brunswick, Maine at a mutually agreeable time following the award of the contract. At this time the Contractor shall submit a graphically illustrated construction schedule and a plan showing project activities. In addition to the Contractor, all subcontractors are required to attend. Town officials and representatives of the various utility companies involved in this project will be in attendance.

It is the purpose of this meeting to inform the various agencies of the proposed work schedule and to allow the opportunity to discuss any project difficulties and to promote cooperation during the implementation of the work.

#### **FIELD DESIGN AND LAYOUT**

The Contractor shall be responsible for the field design and layout for the work on any street in this Project. The Town shall provide plans for each project delineating desired elements in the design and the Contractor shall be responsible for transferring the intent to the ground and constructing a project that meets the intent of the Town.

#### **SITE INVESTIGATION**

The Contractor shall examine the Plans, Specifications and site of the work and from his/her own investigation, determine the nature and location of the work, the general and local conditions, particularly those bearing on access, transportation, quality and quantity of surface and sub-surface materials to be encountered, and all other aspects of the work, machinery and services required to complete the project as required by the Contract Documents. The Town will not be responsible for any understanding or representation made by any Town employee during or prior to negotiation and execution of the Contract, unless such understanding or representation shall be in writing and become a part of the Contract Documents.

### **BORINGS AND ESTIMATE OF QUANTITIES NOT WARRANTED**

It is expressly understood and mutually agreed to by the parties hereto that the quantities of the various classes of work to be done and materials to be furnished under this Contract have been estimated and are approximate and only for the purpose of comparing on a uniform basis the bids offered for the work. It is also understood that the Contractor has made his/her proposal from his/her own examinations and estimates and shall not hold the Town, its agents, or employees responsible for or bound by any schedule, estimate, sounding, boring or any plan thereof as being even approximately correct; and should the Contractor encounter

quicksand or other difficulties, he/she shall have no claim on that account; and he/she shall, if any error in any plan, drawing, specification or direction relating to anything to be done under this Contract comes to his/her knowledge, report it at once to the Engineer. The Contractor further agrees that neither the Town of Brunswick, nor the Director of Public Works, the Engineer, nor either of them separately or together are to be held responsible that any of the quantities be found even approximately correct in the construction of the work, and that the Contractor will make no claim for anticipated profits or for loss of profit because of a difference between the quantities of the various classes of work actually done, or of the materials actually delivered, and any estimated quantities stated in the bids. The Contractor hereby agrees that he/she will complete the entire work to the satisfaction of the Engineer and in accordance with the Specifications and Plans herein mentioned and at the prices agreed upon and fixed therefore.

### **COMMENCEMENT OF WORK**

The Contractor agrees to commence the work required in the Contract Documents within ten (10) days after the signing of the Contract and deliverance of the Bond, unless otherwise specified in the Supplemental Specifications or directed by the Town Engineer; and at his/her own cost and expense do and complete all the work and furnish all the labor, machinery, tools and materials, except as specified in the Supplemental Specifications, and to do everything required to build and put into complete working order for the Town of Brunswick the work described in the Contract Documents.

### **TIME AND ORDER OF DOING WORK**

The Contractor agrees that the work shall be commenced and carried on at such points and in such order of precedence and at such times and seasons as may from time to time be directed by the Engineer.

It is further agreed that no work shall be done under this Contract on Saturdays or Sundays or on days declared by the State Legislature as Legal Holidays, except in cases of emergency and then only with the consent in writing of the Town Engineer; nor shall any work be done at night unless authorized in writing by the Engineer. The Contractor shall make his/her work week conform to that of the Public Works Department. When permission is granted to perform work during times other than this work week, the Contractor shall reimburse the Town for any costs for inspection during these periods.

### **NO DAMAGES FOR DELAY**

The Engineer may delay the beginning of the work or any part thereof if the Town shall not have obtained possession of the land in or upon which the same is to be performed or if for any other reason it becomes necessary to do so. The Contractor shall have no claim for damages on account of such delay, but shall be entitled to so much additional time wherein to perform and complete this Contract on his/her part as the

Engineer shall certify in writing to be just. Whenever any part of the work covered by this Agreement is done in part by or connects with the work so as to accommodate the work of the other contractors and to cooperate with such contractors in mutual agreements as to all such work, and no contractor shall have a claim against the Town growing out of the negligence or delay of any other contractor or contractors; but each contractor shall be liable to every other contractor for any such delay or negligence.

#### **COMPETENT PERSONNEL TO BE EMPLOYED**

The Contractor shall employ only competent personnel to do the work; and whenever the Director shall notify the Contractor, in writing, that any person on the work is, in his/her opinion, incompetent, unfaithful, disorderly or otherwise unsatisfactory, such person shall be discharged from the work and shall not again be employed on it except with the consent of the Director.

A person certified by the DEP in erosion control best practices must be on-site for any activity that disturbs more than one cubic yard of soil –including earth moving and landscaping operations in the shore land zone until work is complete and the site stabilized.

#### **NOT TO SUBLT OR ASSIGN**

The Contractor shall give his/her personal attention constantly to the faithful prosecution of the work, shall keep the same under his/her personal control and shall not assign, by power of attorney or otherwise, nor sublet the work or any part thereof, without the previous written consent of the Engineer; and shall not, either legally or equitably, assign any of the money payable under this Agreement or his/her claim thereto, unless by and with the like consent of the Engineer.

#### **SUPERINTENDENCE BY CONTRACTOR**

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Engineer and shall be one who can be continued in that capacity for the particular job involved unless he/she ceases to be on the Contractor's payroll. All directions given to such representative in the Contractor's absence shall be as binding as if given to the Contractor.

#### **NO TOWN EMPLOYEE TO BE INTERESTED**

It is further agreed that this Contract shall be utterly void as to the Town if any person employed in any capacity by the Town of Brunswick is either directly or indirectly interested therein, except as provided by the Town Charter.

#### **WAIVE**

No order by the Inspector or the Engineer or any of his/her employees, nor any order, measurement or certificate by the Engineer, nor any order by him/her for the payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the Engineer, nor any extension of time, nor any possession taken by the Engineer or his/her employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved by the Engineer, or of any right to damages herein provided; nor shall any waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach. Any remedy provided in this Contract shall be taken and construed as cumulative, that is, in addition to each and every other remedy

herein provided and the Town and the Engineer shall also be entitled to a writ of injunction against any breach of any of the promises of this Contract.

### **ACCESS TO WORK**

The Engineer and Director, their assistants and inspectors may, for any purpose, enter upon the work and premises used by the Contractor, and the Contractor shall provide safe and proper facilities therefore. Other Town contractors may also, for all the purposes which may be required by their contracts, enter upon the work and premises used by the Contractor. Any difference or conflicts which may arise between the Contractor and other contractors of the Town in regard to their work shall be adjusted and determined by the Engineer.

### **ENGINEER TO DETERMINE AMOUNT AND QUANTITY OF WORK, INSPECTION OF MATERIALS**

To prevent all disputes and litigations, it is hereby agreed by and between the parties to this Contract that the Engineer shall in all cases determine the amount and quality of the various classes of work which are to be paid for under this Contract; and that the Engineer by himself/herself, or his/her representatives acting under him/her, shall inspect all the materials to be furnished and all work to be done under this Contract to see that the same corresponds to the Specifications herein set forth. The Contractor further agrees that he/she will furnish the Engineer with such information and vouchers relating to the work, the materials therefore, and the persons employed thereon, as he/she shall from time to time request, and will give to the Engineer or his/her representatives all necessary labor, tools and facilities for inspecting the material to be furnished and the work to be done under this Contract.

The Engineer has the authority to stop the work whenever such a stoppage may be necessary to insure proper execution of this Contract. He/she also has the authority to reject all work and materials which do not conform to the Specifications or Plans, to direct application of forces to any portion of the work and to order the force increased or diminished as in his/her judgment is required.

### **DEFECTIVE WORK AND MATERIALS**

The inspection of the work shall not relieve the Contractor of any of his/her obligations to fulfill this Contract as herein prescribed and defective work shall be made good and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by the Engineer and accepted or estimated for payment. If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, the Contractor shall forthwith make good such defect, in a manner satisfactory to the Engineer, and if any materials brought upon the ground for use in the work, or selected for the same, shall be condemned by the Engineer as unsuitable or not in conformity with the Specifications, the Contractor shall forthwith remove such materials from the vicinity of the work. Nothing in this Contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil; but such materials shall, upon being so attached or affixed, become the property of the Town.

### **SANITARY REGULATIONS**

Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation and made fly proof and satisfactory to the Engineer, shall be constructed and maintained by the Contractor in such a manner and their use shall be strictly enforced.

### **NO INTOXICATING DRINKS**

The Contractor shall neither permit, nor suffer the introduction or use of intoxicating substances upon or about the works embraced in this Contract or upon any grounds occupied by him/her.

### **PAYMENT FOR MATERIALS**

Payments will be made in accordance with the price stated in the Contract. The Contractor may include requests for payment of material delivered to the job site when such requests are accompanied by invoices substantiating the requests for material payment satisfactory to the Town.

### **GUARANTEE**

The Contractor guarantees that the work to be done under this Contract will be done in a good and workmanlike manner and all materials, whether furnished by him/her or the Town used in the construction of the work, will be free from defects and flaws and in conformity with the Plans and Specifications in all respects. This guarantee will be for a period of one (1) year after the date of acceptance of the whole work by the Town of Brunswick.

The Contractor shall at all times, until the final acceptance of the whole work, keep the surface of the streets in the position and condition required by these Plans and Specifications. If at any time within the period of the guaranty, any other part of the work constructed under the terms of this Contract shall in the opinion of the Town Engineer require repairing, the Engineer shall notify the Contractor in writing to make the required repairs. If the Contractor shall neglect to make such repairs to the satisfaction of the Director within the time limit as set forth in the notice in writing to the Contractor of the required repairs, then the Director of Public Works may make the necessary repairs, by contract or otherwise, and the Town shall have a claim against the Contractor in the amount of the expense incurred by the Town in making such repairs.

It is hereby, however, specifically agreed and understood that this guaranty shall not include any repairs made necessary by any cause or causes other than defective work or materials.

### **WORKING HOURS**

All work may proceed on this project between 7:00 A.M. and 7:00 P.M. (prevailing time) on any weekday. No work shall commence on Saturday prior to 8:00 A.M. or after 6:00 P.M. (prevailing time) No Sunday work or work on Holidays will be allowed on this project except as described above. The definition of work for this specification shall include the starting or moving of equipment, machinery, or materials.

The temporary closure of on street parking spaces during daytime hours will be kept to a minimum.

### **LIMIT OF OPERATIONS**

The Contractor shall conduct work at all times in such a manner and in such sequence as will assure the least interference with traffic. He shall not open up work to the prejudice of detriment of work already started. The Engineer may require the Contractor to finish a section on which work is in progress before work is started on any additional sections, if this is essential to public convenience.

Waste and surplus material shall not be stockpiled, but shall be disposed of as designated in the Specifications.



## **SCHEDULE OF OPERATIONS**

A schedule shall be provided consisting of a bar chart detailing the following activities:

- Work Plan/Sequencing of Construction

Although a bar chart is acceptable as a minimum, more complex and detailed schedules (i.e. flow charts, critical path method, etc.) are encouraged and will be acceptable to the Town. Updates will be required.

## **SETTING PIPES TO LINE AND GRADE**

If the Contractor elects to use a laser to set line and grade for the drainage pipe then the equipment shall be frequently checked to verify that it is still accurate and still set to the proper line and grade. If laser equipment is not used then batter boards shall be set at a maximum of 25-foot intervals and the grades transferred to the boards with a transit, level or line level. Setting pipe grades via the use of "pop" level or a carpenter's level will not be permitted.

## **OCCUPATIONAL HEALTH AND SAFETY**

The contractor shall perform all work in accordance of the pertinent requirements of the Occupational Safety and Health Act requirements of the State of Maine and with the regulations for construction as specified by the Department of Labor and Occupational Safety and Health Administration (OSHA) as currently amended.

## **OPEN EXCAVATIONS**

All open excavations shall be adequately safeguarded by providing temporary barricades, caution signs, lights and other means to prevent accidents to persons, and damage to property. Warning signs, barricades, and traffic cones shall meet the latest OSHA standards, Manual on Uniform Traffic Control Devices (MUTCD) and all other applicable Federal, State, and local requirements. The Contractor shall, at his/her own expense, provide suitable and safe bridges and other crossings for accommodating pedestrian travel. Bridges provided for access to private property during construction shall be removed when no longer required.

The length of any open excavation shall not exceed fifty (50) linear feet, unless authorized by the Engineer. If the excavation becomes a hazard, or if it excessively restricts traffic at any point, the Engineer may require special construction procedures such as limiting the length of open excavation, prohibiting the stacking of excavated material in the street, and/or requiring that the excavation shall not remain open overnight. The Contractor shall hold the Town harmless from all liability related to open excavations.

Open excavations will not be allowed overnight unless approved by the Town Engineer in advance. If approved the open excavation shall be completely covered with steel road plates and secured with temporary chain link construction fencing.

The Contractor shall take precautions to prevent injury to the public due to open excavations. All excavations, excavated material, equipment, or other obstacles that could be dangerous to the public shall be well lighted at night. Open excavations shall be allowed overnight, except on heavily traveled streets, or when ordered by the Engineer.

## **MAINTENANCE OF TRAFFIC**

The Contractor shall perform his/her work to maintain at least one lane available for the use of traffic and emergency vehicles at all times. Completely closing the traffic lanes will not be permitted except under special permission from the Town Engineer, Fire Chief and the Police Chief. As the work progresses, the Contractor shall maintain the street to its original width, by removing stockpiles of earth, maintaining trenches at street grade, and providing adequate drainage.

“Stop” signs shall be maintained at their original locations at all times during the progress of work.

Prior to the start of any construction work the Contractor and the Engineer shall prepare a mutually acceptable inventory of all signs within the project limits which shall be used as a guide for replacement should signs be removed for construction purposes. The signs shall be inventoried by station location and offset, legend of sign and post. This work shall be considered incidental to the project and no direct payment shall be made. All signs shall conform to MUTCD standards, most current edition.

All existing traffic signs which are to be removed during construction shall be carefully dismounted and the posts removed and shall be stacked in an area approved by the Engineer. The Contractor shall protect the signs from damage and shall repair or replace, at no additional cost to the Town, any damaged sign or post that was damaged as a result of his operations.

Stockpiling materials in the adjacent travel lane shall not be permitted even in situations where the contractor is granted permission to close the roadway. The contractor shall maintain the adjacent travel lane in such a manner that it can be immediately opened for emergency vehicles, busses, garbage trucks, and other vehicles requiring access to the neighborhood.

The Contractor shall submit the Name and Contact Information of the Responsible Person for the project and a Traffic Control Plan (TCP) in writing at least five (5) work days prior to the planned start of work. The TCP shall contain all flagger's signage, barricades, cones, barrels or other Traffic Control Devices required on the project. The TCP shall also contain a detour plan when necessary. When the Project Engineer and the Contractor are satisfied with the TCP/Detour Plan it shall be submitted to the Permit Office at Brunswick Town Hall for a Street Occupancy Permit and approval of the Fire chief, Police Chief and the Director of Public Works. The Contractor shall provide continuous and effective traffic control during the life of the project. The Town may require certain Traffic Control Limitations such as allowable road closures, Minimum lane widths, or timing of Lane or Road Closures. In all cases the Contractor shall be responsible for supplying signage and traffic control devices.

No work shall commence until all flaggers and traffic control devices are in place per the approved TCP. The Contractor shall keep the Emergency Communications Center informed as to the status of how traffic moving thru the work Zone Daily or as necessary.

On heavily traveled streets the Contractor may be required to provide a Police Detail at his or her own expense to control a busy street or intersection. If a Traffic Light is to be switched to flash mode so the intersection can be controlled by Qualified Flaggers or uniformed Officers the Contractor shall coordinate the process between the Town of Brunswick Police Department and Town Engineer. If any night work is required, the requirements of the latest Manual on Uniform Traffic Control Devices (MUTCD) shall apply including the requirement for Lighted Flagger Stations.



### **NOTIFICATION OF RESIDENTS**

The Contractor shall notify residents sufficiently in advance of any construction activities that may affect the resident's driveway to allow removal of personal vehicles. At least one access to businesses shall be maintained at all times.

### **CARE AND PROTECTION OF PROPERTY**

During construction, the Contractor shall, at his/her own expense, provide for the use of sewers, drains, and natural drainage interrupted by his/her work, and immediately cart away and remove all offensive material, as required or directed by the Engineer.

The Contractor shall assume full responsibility for the protection of all buildings, structures, and utilities, including poles, signs, services to buildings, gas pipes, water pipes, hydrants, sewers, drains, and electric and telephone cables, whether or not they are shown on the Plans. The Contractor, at his/her own expense, shall carefully support and protect all such structures and utilities from injury of any kind. Any damage resulting from the Contractor's operations shall be repaired by him/her at his/her expense.

The Contractor shall restore all ground surfaces outside the limits of construction that are damaged or disturbed by his/her operations, to their original condition. Branches, limbs, and roots shall not be cut except by permission of the Engineer. All cutting shall be smoothly and neatly done without splitting or crushing. In case of cutting or unavoidable damage to branches, limbs, and trunks of trees, the cut or damaged portions shall be neatly trimmed and covered with an application of grafting wax or tree healing paint, as directed.

Cultivated hedges, shrubs, and plants that might be damaged by the Contractor's operations shall be protected by suitable means, or shall be dug up and temporarily replanted and cared for. After the construction operations have been substantially completed, they shall be replanted in their original positions and cared for until growth is re-established. If cultivated hedges, shrubs and plants are injured to such a degree as to affect their growth or diminish their usefulness, they shall be replaced by items of kind and quality at least equal to that existing at the commencement of work. This work shall be performed at the expense of the Contractor. All work shall be inspected and approved by the Town Arborist, and it shall not be considered complete until the Contractor has completed all work to his/her satisfaction.

The Contractor shall preserve all property pins and monuments which are located outside the work area. If property pins or monuments are encountered in the work area where side slopes extend to or beyond the right-of-way line, the Contractor shall halt work in the immediate area long enough for the Engineer to take such data as necessary to re-establish the location of the pin or monument. The Engineer will reset such pin or monument after completion of the work at no expense to the Contractor. If, however, pins or monuments outside the work area become damaged or lost, the restoration or replacement of such items shall be done by a licensed surveyor and shall be the Contractor's responsibility.

The cost of replacing or repairing damaged or broken fences, steps, mailboxes, shrubs, hedges, etc., will be considered incidental to the project and no payment will be made to the Contractor for this work. Resetting of mailboxes to new road elevations shall be considered incidental to the construction and no payment will be made for this work.

On paved surfaces, the Contractor shall not use or operate tractors, bulldozers, or other equipment that could damage such surfaces. All surfaces, which have been damaged by the Contractor's operations, shall be restored to the condition at least equal to that in which they were found immediately prior to the beginning of operations. Suitable materials and methods shall be used for such restoration and shall be performed at the expense of the Contractor.

#### **DUST CONTROL**

This work shall consist of sweeping all impacted pavement in a method to prevent dust and furnishing and applying water or calcium chloride on the roadway or haul roads for dust control as directed by the Engineer. When no items for dust control are included in the Contract, such work shall be considered incidental to the Contract.

The water shall not be salt or brackish and shall be free from oil, acid, and injurious alkali or vegetable matter. The calcium chloride shall conform to the requirements of AASHTO M144 latest version.

Water shall be applied by approved methods and equipment including a tank with a gauge-equipped pressure pump and a nozzle-equipped spray bar. Calcium chloride shall be applied by mechanical spreaders or by hand at the rate designated. Calcium chloride shall be used when authorized by the Engineer for controlling dust on the roadway under construction and where dust constitutes a hazard to traffic.

#### **DISPOSAL OF WATER**

The Contractor shall not be allowed to dispose of any water encountered or used during construction by discharging said water to any existing or new stormdrain, sanitary sewer or combined sewer unless expressly authorized by the by the Town Engineer and/or the Brunswick Sewer District. If discharge to existing facilities is approved minimum pretreatment prior to discharge shall include a dewatering filter bag. All existing and new catch basins shall be protected with approved silt sacs.

#### **REMOVAL OF SURPLUS EXCAVATION**

As the work progresses, all surplus excavation, rubbish, refuse and all unused material, tools and equipment shall be removed at once so as to confine the new work to as short a length as is practicable. All surplus material shall be removed by the Contractor at his/her own expense unless otherwise directed in the Supplemental Specifications.

When this clearing of surplus excavation, rubbish, repairing of street surfaces, fences or other damage is neglected, the Town Engineer will give notice, in writing, to that effect to the Contractor; and, if said material is not removed, or if said repairing is not done within forty-eight (48) hours thereafter, or if the Contractor does not at once take the necessary precautions to insure the safety of travel, the Town Engineer may employ other parties to do such work, and the expense thus incurred will be deducted from any monies due or that may become due the Contractor. Upon the completion of the work, the Contractor shall tear down and remove all structures built by him/her and shall remove all rubbish of any kind from any street or grounds which he/she has occupied and shall leave the area of work in a neat and clean condition.

#### **BLASTING PRECAUTIONS**

When rock is to be removed by blasting, all blasts shall be suitably covered with mats chained together and every precaution taken for the protection of the work, traffic, adjacent buildings and other property. No blasting shall be done by any person or persons other than those approved for that purpose, nor shall any blasting be done without taking out a permit for the same stating the location where the blasting is to be done.

All explosives shall be stored in accordance with the laws and ordinances relating thereto and in accordance with and to the satisfaction of the Fire Chief. All explosives shall be brought upon the work only as needed and in small quantities. Exploders shall be kept entirely separate from explosives. The precautions against accident by blasting or premature explosions shall be entirely satisfactory to the Engineer. No blasting of rock will be permitted within twenty (20) feet of the work already finished, except as permitted by the Engineer. Blasts shall be made only between such hours as are approved by the Engineer. All Federal, State, and Town regulations relating to blasting and explosives shall be fully complied with.

#### **DAMAGE BY BLASTING**

The Contractor shall be liable for all damage to persons or property caused by blasting or explosions, or arising from neglect to properly guard and protect the excavations and all portions of the work; and the Contractor shall wholly indemnify the Town against claims on such account and no compensation will be allowed the Contractor in any event or under any circumstances for loss incurred by him/her or arising from blasting.

#### **PROTECTION OF TREES**

The Contractor shall be responsible for the preservation of all trees on the project which are not called to be removed. Any trees damaged by the Contractor's operations shall be repaired using approved tree dressing or paint in accordance with the appropriate provisions of Section 201 of the MaineDOT Standard Specifications.

#### **PRIVATE LAND**

The Contractor shall not, except after written consent from the proper parties, enter or occupy with personnel, equipment or materials, any land outside the limits of the Town Right of Way or location in which the work is to be done. The Contractor shall, whenever so required by the Engineer, erect and maintain fences along the roadways and around the grounds occupied by him/her of such character as will be sufficient for the protection of the adjoining property. The Contractor shall have access to the project only at such points as the obtained easements meet streets accepted by the Town of Brunswick and at such other points that the Engineer may designate. If other points of access are desired by the Contractor, he/she shall obtain the necessary permission from the property owners.

#### **QUALITY ASSURANCE**

The Contractor shall be responsible at all times for maintaining top quality assurance during the performance of the work. Particular attention to compaction shall be paid during backfilling operations. Strict adherence to Sections 203.11 and 304.04 of the Standard Specifications will be required for all sub-grade and sub-base operations.

The contractor shall provide one gradation and proctor per 1000 cubic yards of each material used on the project. A minimum of one gradation and proctor per type of material used shall be provided. Gradations and proctors shall be completed by an independent testing lab. The testing shall be incidental to the other contract items. The Town reserves the right to complete their own gradations and proctors of materials and any failing tests will be means for rejection of materials.

During paving operations, the paving contractor shall have quality control personal present for the entire paving operation to check densities. In addition, the paving contractor shall supply copies of their quality control test results within 48 hours after placement of the pavement. The Town reserves the right to complete their own testing of the pavement materials and any failing tests will be means for rejection of materials.

### **CLEANING UP**

The Contractor shall keep the work area free from accumulations of waste material or rubbish. Upon completion of the work, the work area and all other areas used by the Contractor shall be cleared of all temporary structures, waste material or rubbish of any kind.

### **RECORD DRAWINGS**

The Contractor shall keep daily records of all changes in the work, ties to all new service connections, and elevations of all inverts. Upon completion of the project, the Contractor shall deliver to the Engineer a marked-up set of plans with all changes and required information indicated in red. The Contractor shall maintain a record of all service lead locations and locations of buried fittings, etc., throughout the project. The locations shall be recorded by 3 ties from fixed permanent points. Prior to requesting final payment, the Contractor shall submit the records in triplicate bound form. The records shall be clearly legible and include the street, tax map, lot number and reference contract drawing number. A blank form is provided at the end of this section and is to be used by the Contractor for preparation of record ties. Final payment will not be made until Engineer receives marked-up set of plans and service lead information.

## **SPECIAL PROVISIONS**

The following Supplemental Specifications and Special Provisions shall amend the “State of Maine, Department of Transportation, Standard Specifications (for) Highways and Bridges”, Revision of March 2020 including all current additions or modifications thereof. In case of conflicts, these Supplemental Specifications and Special Provisions shall take precedence and shall govern.

**Federal wage rates, DBE utilization and other similar federal contract requirements in Section 100 shall not apply to this contract.**

**SPECIAL PROVISIONS**  
**SECTION 101**  
**CONTRACT INTERPRETATION**

The provisions of Division 100 of the Supplemental Specifications shall apply with the following additions or modifications:

**101.11 Commissioner:**

This subsection is amended by the addition of the following: Commissioner shall mean the Town Manager, Town of Brunswick, Maine.

**101.24 Department:**

This subsection is amended by the addition of the following: whenever the word "Department" or the word "Highway Department" or "Department of Transportation" or the words or phrases which, by context of usage are clearly intended to mean the same thing, appear in the Standard Specifications, Special Provision or in or on any plan or other Contract Document, they shall mean the Town of Brunswick.

**101.27 Engineer:**

This subsection is revised to read as follows: The Engineer, Town of Brunswick, acting directly or through his duly authorized representatives, who are responsible for the inspection of the construction.

## **SPECIAL PROVISIONS**

### **SECTION 102**

### **BIDDING**

#### **102.01 Qualifications of Bidders:**

This section is amended by the following: The Town reserves the right to reject any bid if the evidence submitted by, or the investigation of such bidder fails to satisfy the Town that such bidder is properly qualified to carry out the obligations of the Contract and to compete the work contemplated therein. The Town reserves the right to reject any or all bids if it would be in the public interest to do so. A proposal which included any combination of abnormally low or abnormally high unit prices, which results in an unbalanced bid, may be rejected. In addition, the Town of Brunswick reserves the right to negotiate with any bidder if it is deemed in the best interest of the Town do so.

#### **102.03 Method of obtaining plans, specifications, and proposal forms:**

The subsection is revised to read as follows: Plans, Specifications and proposals forms may be inspected and purchased as described in the Advertisement for Bids.

#### **102.11 Delivery of Proposals:**

This subsection is revised to read as follows: Each proposal shall be submitted, document intact, in a sealed envelope. The envelope shall be clearly marked to indicate the name of the bidder, contract name, bid number and be addressed to Town Manager, Town of Brunswick, 85 Union Street, Brunswick, Maine 04011. Proposals may be delivered in person or mailed, but they shall be filed prior to the time and at the place specified in the Advertisement for Bids. Proposals received after the time for opening of bids will be returned to the bidder unopened.

#### **102.12 No Town Employee to be Interested:**

The following paragraph shall be added to Section 102: This contract shall be null and void as to the Town of Brunswick if any person employed in any capacity by the Town is either directly or indirectly interested therein.

## **SPECIAL PROVISIONS**

### **SECTION 104**

#### **UTILITIES**

##### **General Information**

These special provisions outline the arrangements that have been made for coordination of the work and the utility adjustments as defined in Section 104 of the Supplemental Specifications, which adjustments are to be made by Central Maine Power Company, Consolidated, Time Warner Cable, and the Portland Water District unless otherwise provided. Temporary utility adjustments are not anticipated. It is possible that utility poles will need to be held by the utility companies to facilitate the construction of the roadway. The contractor shall be responsible for any fees from the utility companies to hold the utility poles and shall be considered incidental to the other contract items.

Any times and dates mentioned are estimates only and are dependent on favorable weather, working conditions and freedom from emergencies. The Contractor shall have no claim against the Town of Cumberland or if they are exceeded.

Utility working days are Monday through Friday, conditions permitting. Times are estimated on the basis of a single crew for each utility.

All clearing and tree removal, which is part of this contract, must be done by the Contractor in areas where utilities are involved before the utility may relocate their facilities. Any clearing of trees or limbs for the utility relocation shall be marked in the field by the contractor and approved by the Town and the Engineer.

In all cases the Utilities shall be advised well in advance (generally three weeks) before work dependent on other work to be done by the contractor is to be commenced.

**Brunswick Sewer District:** none

**Brunswick Topsham Water District:** extension of mains on Old Bath Road and Bay Bridge Road as part of this contract

**Central Maine Power:** None

**Comcast:** None

**Consolidated:** None

**Maine Natural Gas:** None

**Blasting:** In addition to any other notice that may be required, the Contractor shall notify an authorized representative of each utility having plant close to the blast site no later than twenty-four (24) hours prior to blasting. The notice shall state the approximate time of the blast.

**Dig Safe:** The Contractor shall be responsible for determining the presence of underground utilities prior to commencing any excavation work in accordance with MRSA Title 23 ss 3360-A, Maine Dig Safe System.

**SPECIAL PROVISIONS**  
**SECTION 105**  
**GENERAL SCOPE OF WORK**

**105.06 Cooperation with Utilities:**

This subsection shall be revised with the addition of the following: At points where the Contractor's operations are adjacent to the properties of utilities, damage to which might result in considerable expense loss or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made.

It is anticipated that the utility poles may not be relocated prior to the commencement of contract work. The contractor is advised to schedule his work to accommodate the possibility of utility pole obstruction.

It is anticipated that the several utilities poles will need to be held by the utility companies to facilitate the construction of the roadway. The contractor shall be responsible for any fees from the utility companies to hold the utility poles and shall be considered incidental to the other contract items.

The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress at a reasonable rate and the duplication or rearrangement work may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted. In the event of interruption to utility service as a result of accidental breakage or as a result of being exposed or supported the contractor shall promptly notify the proper authority. The contractor shall cooperate with the same authority in the restoration of such service.

The Contractor shall ascertain the location of existing utilities and any other necessary information by direct inquiry at the office of the following utility owners:

|   |   |
|---|---|
| <b>Bath Water District</b><br>Attn: Trevor Hunt<br>(207) 443-2391<br><a href="mailto:thunt@bathwd.org">thunt@bathwd.org</a>   | <b>Comcast</b><br>Attn: Kendall Blodgett<br>Project Coordinator<br>(207) 729-2623<br><a href="mailto:kendall_bloodgett@cable.comcast.com">kendall_bloodgett@cable.comcast.com</a> |
| <b>Brunswick Sewer District</b><br>Attn: Rob Pontau<br>Assistant General Manager<br>(207) 729-0148 ext. 116<br><a href="mailto:rpontau@brunswicksewer.org">rpontau@brunswicksewer.org</a> | <b>Consolidated</b><br>Attn: James Scheid<br>(207) 626-2031<br><a href="mailto:James.Scheid@consolidated.com">James.Scheid@consolidated.com</a>                                   |
| <b>Brunswick Topsham Water District</b><br>Attn: Josh Cobb<br>District Engineer<br>(207) 729-9956<br><a href="mailto:jcobb@btwater.org">jcobb@btwater.org</a>                             | <b>Maine Natural Gas</b> scope of work<br>Attn: Joe Gauthier<br>(207) 729-0420<br><a href="mailto:jgauthier@mainenaturalgas.com">jgauthier@mainenaturalgas.com</a>                |
| <b>Central Maine Power</b><br>Attn: Timothy Laney<br>Project Manager<br><a href="mailto:Timothy.laney@cmpco.com">Timothy.laney@cmpco.com</a>  | <b>Public Works</b><br>Attn: Ryan Leighton<br>(207) 725-6654<br><a href="mailto:rleighton@brunswickme.org">rleighton@brunswickme.org</a>  |

The completeness of the above listing is not guaranteed by the Town of Brunswick.

**105.09 Authority and Duties of Resident Engineer or Resident Inspector:**

The Resident Engineer or Resident Inspector will not be responsible for nor will issue directions regarding the Contractor's safety precautions or programs; nor will he issue directions relative to or assume control over any aspect of the methods, techniques, or procedures of construction.

**SPECIAL PROVISIONS**

**SECTION 107**

**TIME**

**107.1 Contract Time and Completion Date:**

The contract may not begin work until **May 1, 2024**. Work must be completed by **October 31, 2024**.

**107.7 Schedule of Liquidated Damages:**

This subsection shall be amended to read that the Liquidated Damages be assessed per the below table.

| <b>Original Contract Amount</b> |                         | <b>Liquidated Damages per Calendar Day</b> |
|---------------------------------|-------------------------|--|
| <b>From More Than</b>           | <b>To and Including</b> |  |
| \$0                             | \$500,000               | \$500                                      |
| \$500,000                       | \$1,000,000             | \$1,000                                    |
| \$1,000,000                     | And More                | \$2,000                                    |

## **SPECIAL PROVISIONS**

### **SECTION 108**

### **PAYMENT**

Section 108 of the Supplemental Specifications is hereby modified:

#### **108.3 Retainage:**

This subsection reads as follows: Retainage shall be 10% of the monthly payments claimed until construction is complete. The Town may hold, temporarily or permanently, retainage as needed to reflect amounts due the Town under the Contract and to assure timely Completion of the Work in Conformity with the Contract.

Upon Completion of Physical Work, the Contractor may request that the Department reduce retainage. The Department may grant or deny such request as it deems desirable and prudent. Otherwise, retainage will be held until Final Acceptance.

Add the following to the end of subsection 108, Partial Payments:

#### **Prompt Payment**

- A. Pay when Paid: The Contractor must pay subcontractors for all work satisfactorily performed and invoiced by the subcontractor no later than 30 days from the date the Contractor received payment from the Town for such subcontractor work.
- B. Retainage: The Contractor must return to the subcontractor all retainage withheld from the subcontractor within 30 days after the date of the subcontractor's work.
- C. Flow Down: All subcontractors of the Contractor and all lower tier subcontracts must contain or reference all applicable provisions of the Contract concerning prompt payment.

#### **108.8 Final Payment:**

This subsection is revised by adding the following paragraphs: Prior to final payment the following shall be accomplished:

- A. Contractor and the Engineer shall jointly inspect the project to assure completion of all items including Punch List.
- B. Contractor shall submit Record Drawings indicating all changes and additions made during construction.
- C. Waivers of Lien shall be provided to the Town for the project.
- D. Contractor shall submit the Warranty and Maintenance Bonds in the amount specified in the contract.
- E. Contractor shall submit all Service Lateral Records.
- F. Final Clean-up shall be completed. No payment will be made for the final clean-up and the cost thereof shall be considered incidental to the appropriate item.

G. Final Acceptance Notification will be prepared by the Town and forwarded to the Contractor for the project along with Final Payment.

The Contractor shall guarantee the project for a period of one (1) year from the date of completion.

**SPECIAL PROVISIONS**  
**SECTION 202**  
**REMOVING OF STRUCTURES AND OBSTRUCTIONS**

The provisions of Section 202 of the Standard Specifications shall apply with the following additions and modifications:

**202.01 Description:**

This work shall consist of the removal (milling, grinding, or planing) of the surface of the bituminous concrete pavement to the depth, width, grade, and cross sections as directed by the Engineer at intersection joints. The pavement butt joints item shall be used for driveways, side streets, perimeter of trenches and the terminus of overlay projects. The removal of structures shall be incidental unless they are greater than 10' from the proposed structure. Sawcutting pavement shall be incidental to all other work items.

**202.02 Removing Material:**

The equipment for removing the bituminous surface shall be a power operated planing machine or grinder capable of removing the bituminous concrete pavement to the required depth. The equipment shall be capable of accurately establishing profile grade by referencing from either the existing paving or from an independent grade control and shall have a positive means for removing excess material from the surface and for preventing accidents from flying material in compliance with subsection 107.24, Safety and Accident Prevention, of the Standard Specification. Pavement millings shall become the property of the contractor and shall be disposed of in an approved location.

**202.03 Basis of Payment:**

The accepted quantity of removing pavement surface for butt joints will be paid for at the contract unit price per square yard which price will be full compensation for removing, hauling, clean up and stockpiling the material. The accepted quantity of catch basin or manhole removal will be paid for at the contract unit price per each and will be full compensation for removing at full depth, hauling, clean up and stockpiling the material. Removal of existing pipe within four feet of the horizontal limits of excavation for a proposed pipe will be considered incidental to that applicable pipe pay item.

Payment will be made under:

| Pay Item | Description                            | Pay Unit    |
|----------|--|-------------|
| 202.15   | Remove Existing Manhole or Catch Basin | Each        |
| 202.20   | Remove Bituminous Concrete Surface     | Square Yard |
| 202.202  | Removing Pavement Surface              | Square Yard |
| 202.203  | Pavement Butt Joint                    | Square Yard |

**SPECIAL PROVISIONS  
SECTION 204  
SHOULDER REHABILITATION**

The provisions of Section 204 of the Standard Specifications shall apply with the following additions and modifications:

**204.01 Method of Measurement:**

The quantity of add shoulder aggregate measured for payment will be the number of square yards of aggregate complete in place.

**204.02 Basis of Payment:**

The accepted quantity of Add Shoulder Aggregate to existing shoulder will be paid for at the contract unit price per square yard. No adjustment will be made to the quantity for payment, except as described under Method of Measurement above. Payment will be full compensation for furnishing, placing, grading, compacting, and sweeping new aggregate to the required depth.

Payment will be made under:

| Pay Item | Description                                 | Pay Unit    |
|----------|---|-------------|
| 204.20   | Add Shoulder Aggregate to Existing Shoulder | Square Yard |

**SPECIAL PROVISIONS**  
**SECTION 403**  
**HOT MIX ASPHALT PAVEMENT**

The provisions of Section 403 of the Standard Specifications shall apply with the following additions and modifications.

**403.01 Description:**

The most recently revised special provision Section 108 using the New England Selling Price shall apply to this contract. Also, a price adjustment for performance graded binder on all asphalt, as outlined in Section 108.4.1 Price Adjustment for Hot Mix Asphalt, shall apply to this contract.

**403.02 Basis of Payment:**

The accepted quantities of hot mix asphalt pavement will be paid for at the contract unit price per ton for the mixtures, including hot mix asphalt material complete in place.

Payments will be made under:

| Pay Item | Description                      | Pay Unit |
|----------|----------------------------------|----------|
| 403.207  | Hot Mix Asphalt – 19.0mm         | Ton      |
| 403.208  | Hot Mix Asphalt – 12.5mm Surface | Ton      |
| 403.209  | Hot Mix Asphalt – Hand Placed    | Ton      |
| 403.210  | Hot Mix Asphalt – 9.5mm Surface  | Ton      |
| 403.211  | Hot Mix Asphalt – Shim           | Ton      |
| 403.213  | Hot Mix Asphalt – 12.5mm Base    | Ton      |

## **SPECIAL PROVISIONS**

### **SECTION 408**

#### **STREET REPAIR**

##### **408.01 Description**

This work shall include removal and replacement of existing deteriorated pavement areas. Areas shall be reviewed with the Town prior to repairing.

##### **408.02 Materials and Construction Requirements**

The materials, their use, and construction requirements shall conform to the requirements of Section 203, Section 401, and Section 403 of the Standard Specifications and as supplemented below.

All existing pavement shall be cut with a pneumatic cutting tool or portable saw. Pavement cuts will be first laid out and premarked for accuracy and consistency.

All vertical cuts in existing pavements shall be treated with an approved asphaltic tack coat material. The entire vertical surface area is to be treated. The surface of the repaired area when completed shall be flush with the existing pavement.

##### **408.03 Localized Street Repair**

Localized street repair shall include excavation and replacement of deteriorated pavement in areas as directed prior to pavement overlay. The excavated area shall be graded, compacted, and paved with hot bituminous pavement (19mm or 12.5mm HMA), to match the depth of the existing pavement and be flush with the adjacent pavement surface. Pavement shall be compacted in a maximum 2-inch lifts.

##### **408.04 Method of Measurement**

Localized street repair will be measured by the square yard of pavement area repaired.

##### **408.05 Basis of Payment**

The accepted quantity of localized street repair will be paid for at the contract unit price per square yard. Payment will be full compensation for all equipment, labor, and materials required. Item 408.02 Localized Street Repair shall include removing existing pavement, regrading/recompacting existing gravel, tacking all edges of surrounding pavement, and placement of new pavement.

Payment will be made under:

| Pay Item | Description             | Pay Unit    |
|----------|-------------------------|-------------|
| 408.02   | Localized Street Repair | Square Yard |

**SPECIAL PROVISIONS**  
**SECTION 409**  
**BITUMINOUS TACK COAT**

The provisions of Section 409 of the Standard Specifications shall apply with the following additions and modifications.

**409.01 Application of Bituminous Material:**

The rate of application shall be 0.02 to 0.1 gallons per square yard as directed. During application, care shall be taken to assure areas outside of the work area shall not be discolored. Tack coat shall be required between all layers of Hot Mix Asphalt.

**409.02 Basis of Payment:**

The accepted quantity of bituminous tack coat will be paid for at the contract unit price per gallon for the designated type of material complete in place.

Payments will be made under:

| Pay Item | Description                   | Pay Unit |
|----------|-------------------------------|----------|
| 409.15   | Bituminous Tack Coat. Applied | Gallon   |

**SPECIAL PROVISIONS**  
**SECTION 419**  
**SAWING AND SEALING JOINTS IN BITUMINOUS PAVEMENT**

The provisions of Section 419 of the Standard Specifications shall apply with the following additions and modifications.

**419.01 Description:**

All sawing and sealing joint in bituminous pavement shall be incidental to the contract.

## **SPECIAL PROVISIONS**

### **SECTION 604**

#### **CATCH BASINS**

The provisions of Section 604 of the Standard Specifications shall apply with the following additions and modifications.

#### **604.02 Materials:**

Manholes shall have hinged covers (East Jordan Ergo or approved equivalent); abandoned pipe shall use a masonry plug. Brick and cover shall be replaced if rebuilding catch basins or manholes unless otherwise directed by the Engineer. A cascade cover shall be used if altering manholes to catch basins.

#### **604.04 Altering, Adjusting and Rebuilding Catch Basins and Manholes**

Adjust existing structure to grade shall include adjusting a catch basin frame and grate or manhole frame and cover to grade. Adjusting manholes and catch basins to grade shall include removing and resetting curb inlet stone and terminal curbs (as applicable), removing and resetting frame and cover/grate, and fully reconstructing riser brick to install frame at finish grade..

#### **604.06 Basis of Payment:**

The accepted quantity of item 604.1601 Core Structure will be paid for at the contract unit price each, including labor and furnishing all materials.

Payment will be made under:

| Pay Item | Description                            | Pay Unit |
|----------|--|----------|
| 604.072  | Catch Basin Type A1-C                  | Each     |
| 604.18   | Adjust Manhole or Catch Basin to Grade | Each     |

**SPECIAL PROVISIONS  
SECTION 608  
SIDEWALKS & DRIVEWAYS**

The provisions of Section 608 of the Standard Specifications shall apply with the following additions and modifications:

**608.045 Driveway Apron Adjustment:**

Adjustments to an existing driveway apron shall include removal of existing driveway surface and replacement with hot bituminous pavement. The existing driveway surface material abutting the street shall typically be removed 3 feet into the driveways, or to an agreed upon point, that will achieve positive drainage to the street. Where driveways cross sidewalks, a 2% or flatter grade to the street across the width of sidewalk must be achieved to provide positive drainage to the street. Driveway slopes behind sidewalk sections or behind the typical 3-foot aprons shall conform to the MDOT Standard Detail for Entrances on Sidewalk and Non-Sidewalk Sections (801(01) & (02)). Prior to removal, existing surface shall be cut with a pneumatic cutting tool or portable saw in relatively straight lines.

The existing base material shall be re-graded, compacted, and paved with hot bituminous pavement. Prior to paving, the exposed vertical faces of the existing driveway and the new street pavement shall be coated with tack coat to form a tight joint between the new and the existing pavements. Compaction shall be achieved using a walk behind vibratory plate compactor or larger.

All work described in this section shall be incidental to Section 403 Hot Mix Asphalt Pavement pay items.

**SPECIAL PROVISIONS**  
**SECTION 615**  
**LOAM, SEED, AND MULCH**

**615.01 Description:**

The provisions of Section 615, Section 618 and Section 619 of the Standard Specifications shall apply with the following additions and modifications.

Loam: Loam and its applications shall conform to the requirements of Section 615 of the Standard Specifications. Loam shall be spread evenly across subsoil to a minimum depth of four (4) inches and compacted lightly with a hand roller weighing not more than one hundred (100) pounds per foot of width. During the rolling, all depressions caused by settlement or rolling shall be fitted with loam and then shall be regraded and rolled until presenting a smooth even finish to the required grade.

Lime: Lime shall be applied separately at a rate of one hundred (100) pounds per one thousand (1000) square feet. It shall be thoroughly worked into the surface.

Fertilizer: Commercial fertilizer shall be applied separately at a rate of forty (40) lbs. per one thousand (1,000) square feet. The fertilizer shall be raked into the top two (2) inches of loam. The fertilizer and liming shall be done in a moist soil condition and at least twenty-four (24) hrs. before sowing seed.

Seed: Seeding shall be Method Number 1 and shall conform to the requirements of Section 618 of the Standard Specifications. Seed shall be sown by a mechanical seeder or other method that will sow the seed uniformly at a required rate of five (5) lbs. per one thousand (1,000) square feet. Spread seed when soil is moist. Seed shall be lightly raked into the soil to a depth of approximately one eighth (1/8) inch (and no more than one quarter (1/4) inch), and the entire area shall be lightly rolled with a two hundred (200) pound roller and watered with a fine spray.

Mulch: Mulch and its applications shall conform to the requirements of Section 619 of the Standard Specifications. Mulch shall be spread in a thin uniform layer over the entire seedbed.

**615.08 Basis of Payment:**

The accepted quantity of loam, seed, and mulch will be paid for at the contract **unit price per square yard for a successful growth of grass**. This price shall include the cost of excavation and all labor, materials, and equipment necessary to satisfactorily complete the work. All costs for watering, furnishing labor and equipment for mowing will not be paid for separately, but shall be considered as incidental to this pay item.

| Pay Item | Description           | Pay Unit     |
|----------|-----------------------|--------------|
| 615.071  | Loam, Seed, and Mulch | Square Yards |

**SPECIAL PROVISIONS**  
**SECTION 627**  
**PAVEMENT MARKINGS**

The provisions of Section 627 of the Standard Specifications shall apply with the following additions and modifications:

**627.01 Basis of Payment:**

Payment will be made under:

| Pay Item | Description   | Pay Unit     |
|----------|---|--------------|
| 627.711  | White or Yellow Pavement Marking Line – Plan Quantity | Linear Foot  |
| 627.75   | White or Yellow Pavement & Curb Marking               | Square Yards |
| 627.78   | Temporary 4" Pavement Marking Line, White or Yellow   | Linear Foot  |

**SPECIAL PROVISIONS**

**SECTION 629**

**HAND LABOR**

The provisions of Section 629 of the Standard Specifications shall apply with the following additions and modifications:

**629.01 Basis of Payment:**

Payment will be made under:

| Pay Item | Description               | Pay Unit |
|----------|---------------------------|----------|
| 629.05   | Hand Labor, Straight Time | Hour     |

**SPECIAL PROVISIONS**

**SECTION 631**  
**EQUIPMENT RENTAL**

The provisions of Section 631 of the Standard Specifications shall apply with the following additions and modifications:

**631.01 Basis of Payment:**

Payment will be made under:

| Pay Item | Description                                | Pay Unit |
|----------|--|----------|
| 631.12   | All Purpose Excavator (including operator) | Hour     |
| 631.172  | Truck-Large (including operator)           | Hour     |

**SPECIAL PROVISIONS**

**SECTION 637**

**DUST CONTROL**

The provisions of Section 637 of the Standard Specifications shall apply with the following additions and modifications:

**637.01 Description:**

Dust Control shall be incidental to Section 656 – Temporary Soil Erosion and Water Pollution Control.

**SPECIAL PROVISIONS**  
**SECTION 652**  
**MAINTENANCE OF TRAFFIC**

The provisions of Section 652 of the Standard Specifications shall apply with the following additions and modifications:

**Railroad Flaggers**

The Contractor shall coordinate scheduling railroad flagger with CSX when working within 25 feet of the railroad track on Grant Road.

**652.01 Method of Measurement:**

Flaggers shall be measured hourly, per location occupied.

**652.02 Basis of Payment:**

Preparation of traffic control plans, construction signage, barrels, cones, barriers, maintenance of traffic control devices, flaggers, PCMS, and other necessary incidentals to maintain traffic in accordance with the specifications and the MUTCD shall be paid for Lump Sum under item 652.39 Work Zone Traffic Control.

Payment will be made under:

| Pay Item | Description                            | Pay Unit    |
|----------|--|-------------|
| 652.312  | Type III Barricade                     | Each        |
| 652.33   | Drum                                   | Each        |
| 652.34   | Cone                                   | Each        |
| 652.35   | Construction Signs                     | Square Foot |
| 652.361  | Maintenance of Traffic Control Devices | Lump Sum    |
| 652.38   | Flaggers                               | Hour        |
| 652.381  | Traffic Officer                        | Hour        |
| 652.39   | Work Zone Traffic Control              | Lump Sum    |
| 652.41   | Portable-Changeable Message Sign       | Each        |

## **SPECIAL PROVISIONS**

### **SECTION 659**

### **MOBILIZATION**

The provisions of Section 659 of the Standard Specifications shall apply with the following additions and modifications:

#### **659.01 Basis of Payment:**

Payment will be made under:

| Pay Item | Description  | Pay Unit |
|----------|--------------|----------|
| 659.10   | Mobilization | Lump Sum |

**ATTACHMENT A**  
**SLFRF FEDERAL PROVISIONS/CONDITIONS**

**CUMBERLAND COUNTY**  
Maine



***FEDERALLY REQUIRED PROVISIONS PURSUANT TO THE  
AMERICAN RESCUE PLAN ACT***

If you have any questions while completing this paperwork

**Please contact:**

Cumberland County Compliance and Audit Manager  
142 Federal Street Room 100  
Portland ME, 04101  
207-209-4940

[warren@cumberlandcounty.org](mailto:warren@cumberlandcounty.org)

**The American Rescue Plan Act**

Each Prime contractor or subcontractor shall state as an initial part of contract, compliance with PART 200 - Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards. All contracts must contain all of the following documents, signed and completed.

**Required Document Checklist**

**Prime Contractor**

1.  Certification of the Prime Contractor regarding Disbarment
2.  Certification of the Prime Contractor regarding conflict of interest
3.  Certification of the Prime Contractor regarding EEO and signed EEO Statement
4.  Certification of the Prime Contractor regarding Federal Provisions
5.  Cumberland County Subcontractor & Supplier List

**Subcontractor**

1.  Certification of the Subcontractor regarding Disbarment
2.  Certification of the Subcontractor regarding conflict of interest
3.  Certification of the Subcontractor regarding EEO and signed EEO Statement
4.  Certification of the Subcontractor regarding Federal Provisions

\*NOTE: Prime Contractors & Subcontractor MUST READ AND AGREE TO THE FEDERAL PROVISIONS REQUIREMENTS OF THIS PACKET PRIOR TO WORKING ON THIS PROJECT AND AT THE TIME OF THE BIDD. YOU MUST SUBMITT THESE FORMS WITH YOUR BID/PROPOSAL\*

**CUMBERLAND COUNTY**  
Maine

**CONTRACTOR DISBARRED OR SUSPENSION**

**Prime Contractor**

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

Telephone: \_\_\_\_\_ Ext. \_\_\_\_\_

Contact Person: \_\_\_\_\_

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

E-mail: \_\_\_\_\_

Tax ID: \_\_\_\_\_

BID PRICE: \$ \_\_\_\_\_

BID DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

PROJECT # \_\_\_\_\_

**THIS CERTIFICATION IS REQUIRED BY THE REGULATIONS IMPLEMENTING EXECUTIVE ORDER 12549, DEBARMENT AND SUSPENSION, 29 CFR PART 98, SECTION 98.510, PARTICIPANTS' RESPONSIBILITIES. THE REGULATIONS WERE PUBLISHED AS PART VII OF THE MAY 26, 1988 FEDERAL REGISTER (PAGES 19160-19211).**

**1. THE PROSPECTIVE PRIMARY PARTICIPANT CERTIFIES TO THE BEST OF ITS KNOWLEDGE AND BELIEF THAT IT AND ITS PRINCIPALS:**

- a) ARE NOT PRESENTLY DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, DECLARED INELIGIBLE, OR VOLUNTARILY EXCLUDED FROM COVERED TRANSACTIONS BY ANY FEDERAL DEPARTMENT OR AGENCY;
- b) HAVE NOT WITHIN A THREE-YEAR PERIOD PRECEDING THIS PROPOSAL BEEN CONVICTED OF OR HAD A CIVIL JUDGMENT RENDERED AGAINST THEM FOR COMMISSION OF FRAUD OR A CRIMINAL OFFENSE IN CONNECTION WITH OBTAINING, ATTEMPTING TO OBTAIN, OR PERFORMING A PUBLIC (FEDERAL, STATE OR LOCAL) TRANSACTION OR CONTRACT UNDER A PUBLIC TRANSACTION, VIOLATION OF FEDERAL OR STATE ANTI-TRUST STATUTES OR COMMISSION OF EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR DESTRUCTION OF RECORDS, MAKING FALSE STATEMENTS, OR RECEIVING STOLEN PROPERTY;
- c) ARE NOT PRESENTLY INDICTED FOR OR OTHERWISE CRIMINALLY OR CIVILLY CHARGED BY A GOVERNMENT ENTITY (FEDERAL, STATE OR LOCAL) WITH COMMISSION OF ANY OF THE OFFENSES ENUMERATED IN PARAGRAPH 1.B OF THIS CERTIFICATION; AND
- d) HAVE NOT WITHIN A THREE-YEAR PERIOD PRECEDING THIS APPLICATION/PROPOSAL HAD ONE OR MORE PUBLIC TRANSACTIONS (FEDERAL, STATE OR LOCAL) TERMINATED FOR CAUSE OR DEFAULT.

**2. WHERE THE PROSPECTIVE PRIMARY PARTICIPANT IS UNABLE TO CERTIFY TO ANY OF THE STATEMENTS IN THIS CERTIFICATION, SUCH PROSPECTIVE PARTICIPANT SHALL ATTACH AN EXPLANATION TO THIS PROPOSAL.**

---

NAME AND TITLE, AUTHORIZED REPRESENTATIVE

---

SIGNATURE & DATE

**\*\*\*Please attached a print out of good standing from SAM.Gov\*\*\***

***CONFLICT OF INTEREST***

**2 CFR 200.112 and 2 CFR 200.318**

Conflicts of interest arise when officials or staff stand to benefit either directly themselves or indirectly through business partners or relatives from the awarding or contracting of grant funds. When conflicts of interest arise, ARPA Staff will identify, disclose, and manage them in compliance with Super Circular (2 CFR Part 200.112 Conflict of Interest) and 24 CFR Part 570.611 Conflict of Interest for ARPA.

In the procurement of supplies, equipment, construction, and services by the subrecipients, the conflict of interest provisions in 2 CFR 200.318 shall apply. In all cases not governed by 2 CFR 200.318, this policy will be followed. Such cases include the acquisition and disposition of real property and the provision of assistance by its subrecipients/entities to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i)).

A Conflict of Interest is a real or apparent incompatibility between a person's private interests and his/her public or fiduciary duties. For the purposes of ARPA, the rule is that no persons who are a (n):

- Employee,
- Agent,
- Consultant,
- Officer,
- Elected Official, and/or
- Appointed official

**OF THE:**

- Town, City or County under the Cumberland County jurisdiction.
- Recipient of ARPA funds (applies to all non-profit agencies)
- Federal Government

**WHO:**

- Exercise or have exercised any functions or responsibilities with respect to ARPA activities, and/or
- Are in a position to participate in decision making process or gain inside information with regard to such activities,

**SHALL NOT:**

- Obtain a financial interest or benefit from a ARPA -assisted activity,
- Have a financial interest in any contract, subcontract, or agreement with respect to a ARPA -assisted activity, or with respect to the proceeds of the ARPA -assisted activity.

Either for themselves or those with **whom they have business or immediate family ties**, during their tenure or for one year thereafter.

**EXCEPTIONS**

Upon the written request of the recipient, Treasury may grant an exception to the provisions of this section on a case-by-case basis when it has satisfactorily met the threshold requirements below:

Treasury will consider an exception only after the recipient has provided the following documentation:

1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and description of how the public disclosure was made. AND
2. An opinion from the Cumberland County-Legal Department must be obtained indicating the interest for which the exception is sought would not violate State or local law.

**IMPORTANT:** *Mere submission of a request for an exception does not authorize a recipient to engage in any activity or enter into any contract that constitute a conflict. An exception is not granted until the subrecipient receives such determination in writing from the County as instructed by Treasury.*

In order to successfully obtain an exception from Treasury, the following points must be addressed:

- Significant cost benefit or essential expertise to the project.

- Opportunity for open competitive bidding or negotiation
- Person affected:
  - Member of low or moderate income class of persons intended to be beneficiaries of the assisted activity.
  - Exception will permit such person to receive same benefits as the class.
- Person affected has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the assisted activity.
- Interest or benefit was present *before* affected person was in the conflicting position.
- Undue hardship to subrecipient or person affected which weighed against public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

**\*\*CONFLICT OF INTEREST FORMS MUST BE SIGNED BY ADMINISTRATION,  
STAFF AND BOARD OF DIRECTORS.**

## CONFLICT OF INTEREST

2 CFR 200.112 and 2 CFR 200.318

No employee, officer or agent of Cumberland County, or its set a sides communities, sub-grantee or subrecipient shall participate in selection, award or administration of contract or conduct business with a vendor if a conflict of interest, real or apparent would be involved.

- A. the employee, officer or any agent
- B. a member of his/her immediate family
- C. his or her partner
- D. an organization, which employs or is about to employ, any of the above, has financial or other interest in the firm selected for award.

Cumberland County's, sub-grantee or subrecipient, officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential

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contractors, or parties to sub-agreements, vendors or potential vendors. Depending on gravity, violation of this Conflict of Interest could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

**Non-disclosure Policy** any Cumberland County employee, sub-grantee or subrecipient shall make no disclosure of verbal or written price quotations. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the County or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

**Personal Interest** No member of the County Commissioners or any officer or employee of the County, sub-grantee or subrecipient shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the County of Cumberland, sub-grantee or subrecipient or to a contractor supplying the County of Cumberland, sub-grantee or subrecipient of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the County of Cumberland. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the County of Cumberland, sub-grantee or subrecipient found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the County of Cumberland, sub-grantee or subrecipient shall render the contract void by the Compliance and Audit Director or the County Commissioners.

Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

*Employee Print or type Name and Position/Title*

---

*Signature*

---

*Company Name*

---

*Date*

**CERTIFICATION OF PRIME CONTRACTOR REGARDING EQUAL  
EMPLOYMENT OPPORTUNITY**

**Certification by Prime**

Name of prime contractor: \_\_\_\_\_

Address of prime contractor: \_\_\_\_\_

Tax ID # of prime contractor: \_\_\_\_\_

1. Contractor has participated in a previous contract or subcontract subject to the EEO Clause.

\_\_\_\_\_ Yes                    \_\_\_\_\_ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

\_\_\_\_\_ Yes                    \_\_\_\_\_ No

3. Contractor has filed all compliance reports due under applicable instructions, including SF-100.

\_\_\_\_\_ Yes                    \_\_\_\_\_ No

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

\_\_\_\_\_ Yes                    \_\_\_\_\_ No

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any contractor or prospective contractor, or any other of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the contractor has not filed a compliance report due under applicable instructions, such contractor shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

By signing below, you are certifying your answers to the four questions above were truthful:

---

Name and Title of Authorized Representative (print or type)

---

Signature of Authorized Representative

---

Date of Signature

## **EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

E.O. 11246 requires covered contractors and subcontractors to refrain from discrimination and to engage in affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, sexual orientation, gender identity, and national origin. Additionally, E.O. 11246 prohibits contractors and subcontractors from taking adverse action against employees or applicants for asking about, discussing or disclosing their pay or the pay of their co-workers.

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

---

General Contractor Signature

---

Date

---

General Contractor Printed Name

**FEDERAL REQUIREMENTS FOR SLFRF**

**1. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

(P.L. 88-352), as amended, (42 USC 2000d) and the requirements imposed by the Regulations of the Department of Commerce (15 CFR Part 8) issued pursuant to that Title. In accordance therewith no person in the United States shall, on the grounds of race, handicap, color, sex, national origin or familial status be excluded from participation in, be denied the benefits or be otherwise subjected to discrimination under any program or activity which is paid for with federal funds. The Owner further adds that there shall not be any form of discrimination by any party in any ARPA contract on the basis of familial status, sexual orientation or sex.

**2. REHABILATATION ACT OF 1973**

29 USC 794, Executive Order 11914, Section 504. No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**3. SECTION 202 OF EXECUTIVE ORDER 11246** Applicable to Federally assisted construction contracts and related subcontracts. During the performance of this contract, the contractor agrees as follows:

- A. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of Compensation; and selection for training, including apprenticeship.
- B. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. Contractors shall incorporate foregoing requirements in all subcontracts.
- D. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- E. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- G. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- H. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- I. The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provision, including sanctions for non-compliance. Provided, however, that in the event a

# CUMBERLAND COUNTY

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contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.

J. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on -the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

(b)The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants WM receive considerations for employment without regard to race, color, religion, sex, or national origin.

(c) The contractor will send to each labor union or representative of workers. With which he has a collective bargaining agreement or other contract.

4. **Disbarment & Suspension.** Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

5. **CERTIFICATION OF NONSEGREGATED FACILITIES AS REQUIRED BY THE MAY 19, 1967, ORDER (32 F.R. 74390 ON ELIMINATION OF SEGREGATED FACILITIES, BY THE SECRETARY OF LABOR.** Prior to the award of any construction contract or subcontract, the Contractor shall submit signed Certification of Non-segregated Facilities Forms for him/herself and all subcontractors.

## 6. THE AGE DISCRIMINATION ACT OF 1975

No person in the United States shall, on the basis of age, be excluded from participation or be denied the benefits of, or be subjected to discrimination under, any program or activity undertaken with federal funds.

## 7. LABOR STANDARDS

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

A. Specific to ARAP and when it is the sole source of federal funds, Davis Bacon is application **only to Projects over 10 Million dollars For projects over \$10 million:**

B. recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of

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laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis-Bacon Acts”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:

- (a) The number of employees of contractors and sub-contractors working on the project;
- (b) The number of employees on the project hired directly and hired through a third party;
- (c) The wages and benefits of workers on the project by classification; and
- (d) Whether those wages are at rates less than those prevailing.
- (e) The County must maintain sufficient records to substantiate this information upon request.
- (f) A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

8. **Contract Work Hours and Safely Standards Act (40 U.S.C. 327-333).** All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
9. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
10. **Copeland Anti-Kickback Act** requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency

## 11. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION TITLE IV OF THE LEAD BASED PAINT POISONING PREVENTION ACT

**A. Lead-Based Paint Hazards** (Applicable to contracts for construction or rehabilitation of residential structures) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

**B. Use of Explosives** When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision of direction of use of explosives by the Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

**C. Danger Signals and Safely Devices** The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. They shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

12. **THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970.** (P.L. 91-646 as amended), 15 CFR Part 916 including amendments thereto and regulations there under, as provided by 1. M.R.S.A 901 et seq. The Contractor and Grantee will ensure that all work performed under this Agreement will be done in accordance with this act.
13. **ARCHITECTURAL BARRIERS ACT (P.L 90-480), 42 USC 4151, AS AMENDED**, and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
14. **THE CLEAN AIR ACT AS AMENDED, 42 USC 1857 ED SEQ.9 THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, 33 USC 1251 et seq.** and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility, which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.
15. **MINORITY BUSINESS ENTERPRISES** Referenced in Executive Order #11625, OMB Circular A-102 Attachment 0 Procurement Standards. Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
16. **SECTION 319 OF PUBLIC LAW 101-121** The grantee shall comply with the requirements of Section 319 of Public Law 101-121 regarding government wide restrictions on lobbying.
17. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See: § 200.323. See § 200.216. See § 200.322. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]
18. **Remedial Actions.** In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
19. **Hatch Act.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
20. **False Statements.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

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21. **Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

22. **Debts Owed the Federal Government.** Any funds paid to Recipient

1. in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award;
2. that are determined by the Treasury Office of Inspector General to have been misused; or
3. that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

23. **Disclaimer.** The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

24. **Protections for Whistleblowers.**

a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
- ii. An Inspector General;
- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for contract or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

25. **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

26. **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

**The Prime Contractor hereby agrees, to and will comply with the terms and use of the federal program and its provisions hereto as a condition of the Bid and thereby award. The contractor acknowledges that they have read and understand said provisions hereto.**

Insert Name Here:

---

Authorized Representative:

Title: Date signed:

# **Subcontractor Packet**

## **Subcontractor Checklist**

1.  Certification of the Subcontractor regarding Disbarment
2.  Certification of the Subcontractor regarding conflict of interest
3.  Certification of the Subcontractor regarding EEO and signed EEO Statement
4.  Certification of the Subcontractor regarding Federal Provisions

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**SUB CONTRACTOR DISBARRED OR SUSPENSION**

**Subcontractor:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Ext.** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Tax ID:** \_\_\_\_\_

**BID PRICE:** \$ \_\_\_\_\_

**BID DATE:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**PROJECT LOCATION:** \_\_\_\_\_

**PROJECT #** \_\_\_\_\_

**THIS CERTIFICATION IS REQUIRED BY THE REGULATIONS IMPLEMENTING EXECUTIVE ORDER 12549, DEBARMENT AND SUSPENSION, 29 CFR PART 98, SECTION 98.510, PARTICIPANTS' RESPONSIBILITIES. THE REGULATIONS WERE PUBLISHED AS PART VII OF THE MAY 26, 1988 FEDERAL REGISTER (PAGES 19160-19211).**

**3. THE PROSPECTIVE PRIMARY PARTICIPANT CERTIFIES TO THE BEST OF ITS KNOWLEDGE AND BELIEF THAT IT AND ITS PRINCIPALS:**

- e) ARE NOT PRESENTLY DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, DECLARED INELIGIBLE, OR VOLUNTARILY EXCLUDED FROM COVERED TRANSACTIONS BY ANY FEDERAL DEPARTMENT OR AGENCY;
- f) HAVE NOT WITHIN A THREE-YEAR PERIOD PRECEDING THIS PROPOSAL BEEN CONVICTED OF OR HAD A CIVIL JUDGMENT RENDERED AGAINST THEM FOR COMMISSION OF FRAUD OR A CRIMINAL OFFENSE IN CONNECTION WITH OBTAINING, ATTEMPTING TO OBTAIN, OR PERFORMING A PUBLIC (FEDERAL, STATE OR LOCAL) TRANSACTION OR CONTRACT UNDER A PUBLIC TRANSACTION, VIOLATION OF FEDERAL OR STATE ANTI-TRUST STATUTES OR COMMISSION OF EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR DESTRUCTION OF RECORDS, MAKING FALSE STATEMENTS, OR RECEIVING STOLEN PROPERTY;
- g) ARE NOT PRESENTLY INDICTED FOR OR OTHERWISE CRIMINALLY OR CIVILLY CHARGED BY A GOVERNMENT ENTITY (FEDERAL, STATE OR LOCAL) WITH COMMISSION OF ANY OF THE OFFENSES ENUMERATED IN PARAGRAPH 1.B OF THIS CERTIFICATION; AND
- h) HAVE NOT WITHIN A THREE-YEAR PERIOD PRECEDING THIS APPLICATION/PROPOSAL HAD ONE OR MORE PUBLIC TRANSACTIONS (FEDERAL, STATE OR LOCAL) TERMINATED FOR CAUSE OR DEFAULT.

**4. WHERE THE PROSPECTIVE PRIMARY PARTICIPANT IS UNABLE TO CERTIFY TO ANY OF THE STATEMENTS IN THIS CERTIFICATION, SUCH PROSPECTIVE PARTICIPANT SHALL ATTACH AN EXPLANATION TO THIS PROPOSAL.**

---

**NAME AND TITLE, AUTHORIZED REPRESENTATIVE**

---

**SIGNATURE & DATE**

***CONFLICT OF INTEREST***

**2 CFR 200.112 and 2 CFR 200.318**

Conflicts of interest arise when officials or staff stand to benefit either directly themselves or indirectly through business partners or relatives from the awarding or contracting of grant funds. When conflicts of interest arise, ARPA Staff will identify, disclose, and manage them in compliance with Super Circular (2 CFR Part 200.112 Conflict of Interest) and 24 CFR Part 570.611 Conflict of Interest for ARPA.

In the procurement of supplies, equipment, construction, and services by the subrecipients, the conflict of interest provisions in 2 CFR 200.318 shall apply. In all cases not governed by 2 CFR 200.318, this policy will be followed. Such cases include the acquisition and disposition of real property and the provision of assistance by its subrecipients/entities to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i)).

A Conflict of Interest is a real or apparent incompatibility between a person's private interests and his/her public or fiduciary duties. For the purposes of ARPA, the rule is that no persons who are a (n):

- Employee,
- Agent,
- Consultant,
- Officer,
- Elected Official, and/or
- Appointed official

**OF THE:**

- Town, City or County under the Cumberland County jurisdiction.
- Recipient of ARPA funds (applies to all non-profit agencies)
- Federal Government

**WHO:**

- Exercise or have exercised any functions or responsibilities with respect to ARPA activities, and/or
- Are in a position to participate in decision making process or gain inside information with regard to such activities,

**SHALL NOT:**

- Obtain a financial interest or benefit from a ARPA -assisted activity,
- Have a financial interest in any contract, subcontract, or agreement with respect to a ARPA -assisted activity, or with respect to the proceeds of the ARPA -assisted activity.

Either for themselves or those with **whom they have business or immediate family ties**, during their tenure or for one year thereafter.

**EXCEPTIONS**

Upon the written request of the recipient, Treasury may grant an exception to the provisions of this section on a case-by-case basis when it has satisfactorily met the threshold requirements below:

Treasury will consider an exception only after the recipient has provided the following documentation:

3. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and description of how the public disclosure was made. AND
4. An opinion from the Cumberland County-Legal Department must be obtained indicating the interest for which the exception is sought would not violate State or local law.

**IMPORTANT:** *Mere submission of a request for an exception does not authorize a recipient to engage in any activity or enter into any contract that constitute a conflict. An exception is not granted until the subrecipient receives such determination in writing from the County as instructed by Treasury.*

In order to successfully obtain an exception from Treasury, the following points must be addressed:

- Significant cost benefit or essential expertise to the project.

- Opportunity for open competitive bidding or negotiation
- Person affected:
  - Member of low or moderate income class of persons intended to be beneficiaries of the assisted activity.
  - Exception will permit such person to receive same benefits as the class.
- Person affected has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the assisted activity.
- Interest or benefit was present *before* affected person was in the conflicting position.
- Undue hardship to subrecipient or person affected which weighed against public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

**\*\*CONFLICT OF INTEREST FORMS MUST BE SIGNED BY ADMINISTRATION,  
STAFF AND BOARD OF DIRECTORS.**

## CONFLICT OF INTEREST

2 CFR 200.112 and 2 CFR 200.318

No employee, officer or agent of Cumberland County, or its set a sides communities, sub-grantee or subrecipient shall participate in selection, award or administration of contract or conduct business with a vendor if a conflict of interest, real or apparent would be involved.

- A. the employee, officer or any agent
- B. a member of his/her immediate family
- C. his or her partner
- D. an organization, which employs or is about to employ, any of the above, has financial or other interest in the firm selected for award.

Cumberland County's, sub-grantee or subrecipient, officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential

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contractors, or parties to sub-agreements, vendors or potential vendors. Depending on gravity, violation of this Conflict of Interest could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

**Non-disclosure Policy** any Cumberland County employee, sub-grantee or subrecipient shall make no disclosure of verbal or written price quotations. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the County or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

**Personal Interest** No member of the County Commissioners or any officer or employee of the County, sub-grantee or subrecipient shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the County of Cumberland, sub-grantee or subrecipient or to a contractor supplying the County of Cumberland, sub-grantee or subrecipient of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the County of Cumberland. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the County of Cumberland, sub-grantee or subrecipient found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the County of Cumberland, sub-grantee or subrecipient shall render the contract void by the Compliance and Audit Director or the County Commissioners.

Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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*Employee Print or type Name and Position/Title*

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*Signature*

---

*Company Name*

---

*Date*

**CERTIFICATION OF SUBCONTRACTOR REGARDING EQUAL  
EMPLOYMENT OPPORTUNITY**

**Certification by Subcontractor**

Name of Subcontractor: \_\_\_\_\_

Address of Subcontractor: \_\_\_\_\_

Tax ID # of Subcontractor: \_\_\_\_\_

1. Contractor has participated in a previous contract or subcontract subject to the EEO Clause.

\_\_\_\_ Yes                    \_\_\_\_ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

\_\_\_\_ Yes                    \_\_\_\_ No

3. Subcontractor has filed all compliance reports due under applicable instructions, including SF-100.

\_\_\_\_ Yes                    \_\_\_\_ No

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

\_\_\_\_ Yes                    \_\_\_\_ No

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any contractor or prospective contractor, or any other of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the contractor has not filed a compliance report due under applicable instructions, such contractor shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

By signing below, you are certifying your answers to the four questions above were truthful:

---

Name and Title of Authorized Representative (print or type)

---

Signature of Authorized Representative

---

Date of Signature

## **EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

E.O. 11246 requires covered contractors and subcontractors to refrain from discrimination and to engage in affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, sexual orientation, gender identity, and national origin. Additionally, E.O. 11246 prohibits contractors and subcontractors from taking adverse action against employees or applicants for asking about, discussing or disclosing their pay or the pay of their co-workers.

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

9. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
10. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
12. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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13. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
14. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
15. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
16. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

---

Subcontractor Signature

---

Date

---

Subcontractor Printed Name

**FEDERAL REQUIREMENTS FOR SLFRF**

**23. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

(P.L. 88-352), as amended, (42 USC 2000d) and the requirements imposed by the Regulations of the Department of Commerce (15 CFR Part 8) issued pursuant to that Title. In accordance therewith no person in the United States shall, on the grounds of race, handicap, color, sex, national origin or familial status be excluded from participation in, be denied the benefits or be otherwise subjected to discrimination under any program or activity which is paid for with federal funds. The Owner further adds that there shall not be any form of discrimination by any party in any ARPA contract on the basis of familial status, sexual orientation or sex.

**24. REHABILITATION ACT OF 1973**

29 USC 794, Executive Order 11914, Section 504. No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**25. SECTION 202 OF EXECUTIVE ORDER 11246** Applicable to Federally assisted construction contracts and related subcontracts. During the performance of this contract, the contractor agrees as follows:

- A. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of Compensation; and selection for training, including apprenticeship.
- B. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. Contractors shall incorporate foregoing requirements in all subcontracts.
- D. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- E. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- G. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- H. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of

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September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- I. The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provision, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- J. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on -the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:
  - (b)The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants WM receive considerations for employment without regard to race, color, religion, sex, or national origin.
  - (c) The contractor will send to each labor union or representative of workers. With which he has a collective bargaining agreement or other contract.

**26. Disbarment & Suspension.** Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**27. CERTIFICATION OF NONSEGREGATED FACILITIES AS REQUIRED BY THE MAY 19, 1967, ORDER (32 F.R. 74390 ON ELIMINATION OF SEGREGATED FACILITIES, BY THE SECRETARY OF LABOR.** Prior to the award of any construction contract or subcontract, the Contractor shall submit signed Certification of Non-segregated Facilities Forms for him/herself and all subcontractors.

**28. THE AGE DISCRIMINATION ACT OF 1975**  
No person in the United States shall, on the basis of age, be excluded from participation or be denied the benefits of, or be subjected to discrimination under, any program or activity undertaken with federal funds.

**29. LABOR STANDARDS**  
Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally

Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- A. Specific to ARAP and when it is the sole source of federal funds, Davis Bacon is application **only to Projects over 10 Million dollars For projects over \$10 million:**
  - B. recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
    - (g) The number of employees of contractors and sub-contractors working on the project;
    - (h) The number of employees on the project hired directly and hired through a third party;
    - (i) The wages and benefits of workers on the project by classification; and
    - (j) Whether those wages are at rates less than those prevailing.
    - (k) The County must maintain sufficient records to substantiate this information upon request.
    - (l) A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).
30. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).** All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
31. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment

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or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

32. **Copeland Anti-Kickback Act** requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency

## 33. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION TITLE IV OF THE LEAD BASED PAINT POISONING PREVENTION ACT

**A. Lead-Based Paint Hazards** (Applicable to contracts for construction or rehabilitation of residential structures) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

**B. Use of Explosives** When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision of direction of use of explosives by the Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

**C. Danger Signals and Safety Devices** The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. They shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

34. **THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970.** (P.L. 91-646 as amended), 15 CFR Part 916 including amendments thereto and regulations there under, as provided by 1. M.R.S.A 901 et seq. The Contractor and Grantee will ensure that all work performed under this Agreement will be done in accordance with this act.

35. **ARCHITECTURAL BARRIERS ACT (P.L 90-480), 42 USC 4151, AS AMENDED**, and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.

36. **THE CLEAN AIR ACT AS AMENDED, 42 USC 1857 ED SEQ.9 THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.** Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility,

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which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.

37. **MINORITY BUSINESS ENTERPRISES** Referenced in Executive Order #11625, OMEB Circular A-102 Attachment 0 Procurement Standards. Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
38. **SECTION 319 OF PUBLIC LAW 101-121** The grantee shall comply with the requirements of Section 319 of Public Law 101-121 regarding government wide restrictions on lobbying.
39. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See: § 200.323. See § 200.216. See § 200.322. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]
40. **Remedial Actions.** In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
41. **Hatch Act.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
42. **False Statements.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
43. **Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
44. **Debts Owed the Federal Government.** Any funds paid to Recipient
  4. in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award;
  5. that are determined by the Treasury Office of Inspector General to have been misused; or
  6. that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
23. **Disclaimer.** The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
24. **Protections for Whistleblowers.**
  - a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below,

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information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
- ii. An Inspector General;
- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for contract or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

**25. Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

**26. Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

**The Subcontractor hereby agrees, to and will comply with the terms and use of the federal program and its provisions hereto as a condition of the Bid and thereby award. The contractor acknowledges that they have read and understand said provisions hereto.**

Insert Name Here:

---

Authorized Representative:

Title:

Date signed:



## Prime Contractor Subcontractor & Supplier List

Project Name:  
Project Address:

**Contractor Name:**  
**Contractor Address:**

Date :  
Project No:

The Contractor hereby submits the list below to the Owner and applicable parties identifying every Subcontractor, material supplier, and service provider associated with this project through the Contractor's construction contract. The Contractor attests that each of these entities has been informed of their obligation to conform to the project documents and all applicable federal, state, and local regulations. The Contractor shall update, revise, and resubmit this list when changes make it necessary.

### **Subcontractors:**

## Material Suppliers

**ATTACHMENT B**  
**EPA COMMUNITY GRANT FEDERAL PROVISIONS/CONDITIONS**



## DWSRF SUPPLEMENTAL GENERAL CONDITIONS FOR DISTRIBUTION PROJECTS

**PURPOSE:** The DWSRF Supplemental General Conditions are written to ensure that State and Federal funding and project requirements are included in DWSRF construction contract documents. Projects to utilize this General Condition set include all Distribution projects whose primary purpose is the installation, rehabilitation or replacement of water distribution or transmission mains. Other projects should utilize: DWSRF Supplemental General Conditions For Non-Distribution Projects. Note: Co-Funded projects may require an alternate General Condition set - contact your SRF Project Manager for clarification if needed.

**ORIGINATOR/OWNER:** DWP DWSRF Staff/Chief Engineer

### PROCEDURE:

1. All contents of the DWSRF Supplemental General Conditions in this document must be included in DWSRF funded construction contract specification documents for projects and shall be put out for public bid.
2. It is helpful to incorporate the complete DWSRF Supplemental General Conditions documented here into a specification document, yet as long as all of the conditions are present in the specification document, the complete set of conditions described below do not need to be included as shown.

Specifically, when other sources are funding portions of a construction project funded also by DWSRF, as long as each item in the DWSRF supplemental general conditions is included in the specifications document, there is no need to duplicate conditions within the specifications document.

3. When questions arise regarding a component of these supplemental general conditions, the public water system or their engineer should contact their DWP DWSRF Project Manager to discuss the issue first. A DWSRF Manager will assist with decision making as needed.

### ASSOCIATED DOCUMENTS:

- DWRSF Project Management Guidance Manual
- State of Maine Rules Relating to Drinking Water State Revolving Loan fund

**SUPERSEDED DOCUMENTS:** All previously undocumented versions of this document

**RETENTION:** This document is retained per DWP Record Retention Schedules

Title: DWSRF Supplemental General Conditions for Distribution Projects  
SOP ID: DWP0306  
Revision:

## REVISION LOG:

| Section   | Page                | Rev.   | Date      | Description Of Change   | Approved by:    |
|---|---------------------|--|-----------|---|-----------------|
|   |                     | Original   | 8-15-12   |   | Norm Lamie      |
| MBE/WBE   | 5                   | A  | 3-1-2013  | MBE/WBE goals change from 1.3% and 3.7% to 0.64% and 1.64% respectively.  | Norm Lamie      |
| DBE, Davis Bacon, AIS, Change in Work and Work Price. | 3, 11, 5-7, 9,12,14 | B  | 7-28-15   | Change WBE/MBE to DBE and added new requirements and reference to EPA documents. Modified Davis Bacon description. Added American Iron & Steel requirements. Added list of related info and forms. Removed "Bid Protest" and "Claims or Disputes" or Disputes sections which are covered by EJCDC. Included that Change Orders shall require DHHS approval. | Norm Lamie      |
| DBE Related Info & Forms                              | 5-6<br>13           | C  | 3-18-16   | Changed "EPA" to "DWP" on the titles of the 6100-2,3,4 forms described in the section on DBEs.  | Nathan Saunders |
| Appendix A  |                     | D  | 3-24-16   | FROMS: Added Appendix Documents: Forms 6100-4,3,2, Progress Rpt of DBE Subcontrctor Utilization, Weekly Payroll Labor Stds Compliance Review, AIS Certificaton  | Nathan Saunders |
|   |                     | E  | 1-24-17   | Updated EJCDC document #s and names   | Nathan Saunders |
|   |                     | F  | 11-28-17  | Added Executive Order 12549 on Debarment and Suspension   | Nathan Saunders |
| Appendix A and Appendix B                             |                     | G  | 2-12-18   | Change Appendix A to Appendix B to enable adding .pdf forms at the end of the document. Added Wage Rate Requirements as Appendix A.   | Nathan Saunders |
| Appendix B  |                     | H  | 3-21-19   | Added Deminimus Tracking Form to Appendix B   | Nathan Saunders |
| General Conditions                                    | 15                  | J  | 1-5-2021  | Added Federal requirement: "Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment"   | Nathan Saunders |
| Appendix B  |                     | K  | 4-7-2021  | Updated all forms to be generic SRF instead of DWSRF in order to make forms for DWP and DEP the same, specifically valuable for working MDOT projects with both DWP and DEP work involved.  | Nathan Saunders |
| General Conditions                                    | 3, 11               | L  | 3-23-2022 | Added EO 14026  | McKenzie Parker |
| General Conditions Appendix B Appendix C              |                     | Created separate condition set to align with BIL requirements on Equiv. projects.<br>Sub-division of DWP0151 | 4-6-2023  | Removed EO14026, Removed AIS Requirements, Added BABA Reqs Added BIL project Sign, Updated Definition of Equivalency  | McKenzie Parker |

## **DWSRF SUPPLEMENTAL GENERAL CONDITIONS**

The provisions of the Drinking Water State Revolving Loan Fund (DWSRF) Supplemental General Conditions as described below change, amend, or supplement the General Conditions and shall supersede any conflicting provisions of the CONTRACT. These provisions shall be used in conjunction with the most recent version of EJCDC documents C-700 (Standard General Conditions) and C-520 (Agreement between Owner and Contractor), both the Funding Agency version. All provisions of the General Conditions, which are not changed, amended, or supplemented, remain in full force.

### Notice to Bidders

Any person interested in Bidding on this contract should thoroughly familiarize themselves with these DWSRF Supplemental General Conditions. Failure to comply with any of these conditions may result in the Bidder being determined non-responsive and therefore, not entitled to the award of this contract.

**NOTE: In the ADVERTISEMENT TO BIDDERS, the following language should be used making all Bidders aware of the DHHS Special conditions.**

### Bid Bond

A certified check or bank draft payable to the OWNER or a satisfactory Bid Bond executed by the Bidder and a Surety Company in the equal to five percent (5%) of the Bid shall be submitted with each bid. No bid may be withdrawn for at least 60 days after receipt of bids unless released by the owner.

### Disadvantaged Business Enterprise Requirements

Each Bidder shall take notice special notice of the Guidance for use of Disadvantaged Business Enterprises in the DWSRF Supplemental General Conditions. Failure to complete these requirements may result in finding that the Bidder is nonresponsive and therefore, not eligible to awarded this contract. Complete requirements are located in the Bid Documents.

### Nondiscrimination in Employment and Labor Standards

Bidders on this work will be required to comply with the President's Executive Order No. 11246 and amendments and supplements to that Order. The requirements for Bidders and CONTRACTORS under this Order are located in the DWSRF Supplemental General Conditions.

### Federal Requirements

The CONTRACTOR must comply with the Department of Labor Regulations relating to Copeland "Anti-Kickback Act (18 U.S.C. 874) as supplemented by 29 CFR part 3, Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by 29 CFR part 5, Occupational Safety and Health Standards (OSHA) (29 CFR part 1910)

The CONTRACTOR must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Safe Drinking Water Act, Executive Order 11738, and the Environmental Protection Agency regulations (40 CFR Part 15).

The CONTRACTOR must comply with all permits, restrictions and conditions, issued for the PROJECT by Federal Cross-cutting Authorities.

## Disclaimer

Any contract awarded under this Advertisement to Bidders is expected to be funded in part by a Maine Drinking Water State Revolving Fund loan. Neither the State of Maine nor any of its departments, agencies, or employees is, or will be, party to the CONTRACT.

**NOTE: The following language shall be added to the INFORMATION FOR BIDDERS section of the specifications:**

### Bonding and Insurance

Bidders must furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition the CONTRACTOR awarded a construction contract must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. CONTRACTORS shall obtain such construction insurance (e.g., fire and extended coverage, workmen's compensation, public liability and property damage, and "all risk" builders risk) as is customary and appropriate.

### Manufacturer's Experience

Wherever it may be written that an equipment manufacturer must have a specified period of experience with his product or equipment, who does not meet the specified experience period, can be considered if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period which will guarantee replacement of that equipment in the event of failure.

### Sales Tax

This PROJECT is exempt from State Sales and Use or Excise Taxes to the extent allowed by law.

**Each system must determine whether or not the Sales Tax paragraph is applicable to its project.**

### Safety and Health Regulations

This PROJECT is subject to all the Safety and Health Regulations (CFR 29 Part 1926 and all subsequent amendments) as promulgated by the US. Department of Labor on June 24, 1974. CONTRACTORS are urged to become familiar with the requirements of these regulations.

### Nondiscrimination in Employment

- a. Contracts for work under this proposal will obligate the CONTRACTORS and the SUBCONTRACTORS not to discriminate in employment practices.
- b. Bidders must submit with their initial bid a signed statement as to whether they have previously performed work subject to the President's Executive Order No. 11246, or any preceding similar Executive Order.
- c. Bidders must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive the award of the contract.
- d. Successful bidders must, if requested, submit a list of all SUBCONTRACTORS who will perform work on the PROJECT, and written signed statements from authorized agents of labor pools with which they will or may deal for employees on the work together with supporting information to the effect that such labor pools' practices and policies are in conformity with Executive Order No. 11246; that they will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employees seeking employment and performing work under the contract or, a certification as to what efforts have been made to secure such statements when such agents or labor pools have failed or refused to furnish them prior to award of the contract.

- e. Successful bidders must be prepared to comply in all respects with the contract provisions regarding nondiscrimination.

### SRF Disadvantaged Business Enterprises (DBE) Program

“The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 40 CFR part 33, Disadvantaged Business Enterprises (DBE), in the award and administration of subcontracts. Failure by the Contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

The goals for this project are a minimum of 0.64% certified Minority Business Enterprise (MBE) and a minimum of 1.64% certified Women’s Business Enterprise (WBE) participation. Lists of certified businesses may be found on the following internet websites: EPA Office of Small and Disadvantaged Business Utilization (OSDBU), State of Maine Department of Transportation (DOT), and the United States Small Business Administration (SBA).

The contractor must maintain all records documenting its compliance with the requirements of this part, including documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives.

1. During the bidding period, the Contractor is required to make the following good faith efforts if they will be awarding subcontracts:
  - (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
  - (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
  - (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
  - (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
  - (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
  - (f) Employ the good faith efforts described above even if the prime contractor has achieved its fair share objectives under subpart D of this part.
2. The Contractor must comply with the following provisions when submitting their bid:
  - (a) The contractor must complete and submit DWP Form 6100-4, ‘DBE Program Subcontractor Utilization Form’ (**See Appendix B**) as part of the prime contractor’s bid or proposal package to the Owner. Note, only DBE subcontractors should be listed. If no DBE subcontractors are to be used, the contractor must still complete and submit the form.  
The contractor must have each of its proposed DBE subcontractors complete the DWP Form 6100-3, ‘DBE Program Subcontractor Performance Form’ (**See Appendix B**). The completed forms must be submitted as part of the prime contractor’s bid or proposal package to the Owner.
3. Prior to contract award, as the Successful Bidder, the Contractor must comply with the following provisions:
  - (a) The contractor must submit to the Owner documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives. Solicitation documentation must include proof of receipt. The records must be submitted to the Owner even if the goals were met.

(b) The contractor must submit to the Owner a bidders list of all firms that bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs. The purpose of a bidders list is to provide contractors who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE subcontractors. The list must include the following information:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as an MBE/WBE or non-MBE/WBE.

4. Following contract award, the Contractor must comply with the following additional provisions:

(a) The contractor must provide DWP Form 6100-2, 'DBE Program Subcontractor Participation Form' (See **Appendix B**) to all DBE subcontractors listed on Form 6100-4. DWP Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have during the course of the project, for example, reasons why the DBE subcontractor believes it was terminated by the prime contractor. If DBE subcontractors choose to complete this form, the completed form should be sent directly to the "Contract Administrator" identified in the Preconstruction Meeting.

Complete the DWSRF DWP Progress Report of DBE Subcontractor Utilization Form (See **Appendix B**) for all contractor pay applications whether or not they include invoiced amounts from DBE subcontractors. The progress report shall be attached to the corresponding pay application for processing through the Owner.

Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Owner.

d Notify the Owner in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor.

e If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the good faith efforts described above if soliciting a replacement subcontractor. Documentation of good faith efforts shall be submitted to the Owner upon request."

#### Build America, Buy America (BABA) Act Requirements

The Contractor acknowledges to and for the benefit of the Owner and the the Funding Authority that it understands the goods and services under this Agreement are being funded with federal monies and have statutory requirements commonly known as "Build America, Buy America;" that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and Funding Authority (a) the Contractor has reviewed and understands the Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, as may be requested by the Owner or the Funding Authority. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner or Funding Authority to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Owner or Funding Authority resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Funding Authority or any damages owed to the Funding Authority by the Owner). If the Contractor has no direct contractual privity with the Funding Authority, as a lender or awardee to the Owner for the funding of its project, the Owner and the Contractor agree that the Funding Authority is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Funding Authority.

The Owner shall maintain files on the project site for Build America, Buy America (BABA) manufacturer certifications. The Contractor and subcontractors shall provide step manufacturer certifications to the Owner for each BABA item delivered to the site. The files shall be made available to State and Federal officials for inspection upon request.

The Contractor and its subcontractors shall submit to the Owner, an BABA Compliance Certification (**See Appendix B**) prior to the project Preconstruction Meeting. The Owner, shall in turn, submit this certification from the Contractor, with their BABA Compliance Certification (**See Appendix B**), to the State at the project Preconstruction Meeting.

The nationwide waiver to the BABA law permits the use of products when they occur in de minimis components of such projects funded by the Act that may otherwise be prohibited under the Act. Funds used for such de minimis components cumulatively may comprise no more than a total of 5 percent of the total cost of the project. It is the State's interpretation that all DWSRF projects will contain components that might not comply with the law and therefore it is likely that the Owner will use the de minimis waiver. The Contractor is required to provide the necessary documentation. Owners should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation (i.e., invoices) as to those items in their project files, and must summarize in reports the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the calculations by which they determined the total cost of the project. The Owner shall maintain files on the project site for this documentation. The files shall be made available to State and Federal officials for inspection upon request.

Additional information regarding the BABA requirements can be found on this website:  
<https://www.epa.gov/cwsrf/build-america-buy-america-baba>

# Notice to Labor Union or Other Organization of Workers

## Nondiscrimination in Employment

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

The undersigned currently holds contract(s) with \_\_\_\_\_  
(Name of Applicant)  
involving funds or credit of the U.S. Government of (a) subcontract(s) with a prime CONTRACTOR holding such contract(s).

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

HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION

RECRUITMENT, ADVERTISING, OR SOLICITATION FOR

EMPLOYMENT TRAINING DURING EMPLOYMENT, RATES OF

PAY OR OTHER FORMS OF COMPENSATION, SELECTION FOR TRAINING

INCLUDING APPRENTICESHIP, LAYOFF, OR TERMINATION.

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

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

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

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

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

## Contractor's and Subcontractor's Insurance

The CONTRACTOR shall not commence work under this contract until he has obtained all the insurance required hereunder and the OWNER has approved such insurance, nor shall the CONTRACTOR allow any SUBCONTRACTOR to commence work on his subcontract until all similar insurance required of the SUBCONTRACTOR has been so obtained and approved. Approval of the insurance by the OWNER shall not relieve or decrease the liability of the CONTRACTOR hereunder.

Operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him, requires insurance to be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefore, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by any one person in any one accident-, and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident.

The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTOR as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, in accordance with the provisions of the laws of the State of Maine, Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the PROJECT and in case any work is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous work under this contract at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide adequate and suitable insurance for the protection of his employees not otherwise protected.

## Posting Documents

The following documents must be posted and maintained by the CONTRACTOR at such place or places on the PROJECT site where employees can easily see them. The posters may be obtained, free of charge, from "Business Answers" 1-800-872-3838.

- "Notice to Labor Union or Other Organizations of Workers" (Exhibit 2)
- "Equal Employment Opportunity is the Law" poster
- "Job Safety and Health Protection" poster
- "Fair Labor Standards Act" poster
- "Employee Polygraph Protection Act" poster
- "Family and Medical Leave Act" poster (applicable to employers of 50 or more employees)
- "Notice Relative to the Regulation of Employment" (State Poster)
- "Minimum Wage" (State Poster)
- "Whistleblowers' Protection Act" (State Poster)
- "Sexual Harassment Law" (State Poster)
- "Workers Compensation" (State Poster)
- "Maine Employment Security Law" (applicable to employers who must pay unemployment tax)

“Notice to All Employees” (<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>)

“Davis-Bacon” wage rates

Available from the Maine Dept. of Labor at <http://www.maine.gov/labor/posters/>.

### Project Sign

The CONTRACTOR shall provide and erect PROJECT signs as detailed and specified in Appendix C (See “Project Signs for all Agencies” at [www.medwp.com](http://www.medwp.com) for sign specifications when multiple funding agencies are being utilized). The location of the signs shall be as directed by the ENGINEER. No other CONTRACTOR, SUBCONTRACTOR or material signs will be permitted on the sign. The CONTRACTOR shall maintain and keep the PROJECT signs in good condition until the work is completed when the signs will be removed. All other signs to be erected on the site shall be approved by the ENGINEER. Provide adequate supports for signs as site conditions may require and keep sign a proper distance above prevailing grade to permit public viewing. DHHS may provide an alternative method to placing a project sign for certain types of projects.

### Inspection

Representatives of the OWNER and of the Department of Health and Human Services (DHHS) shall have access to the work wherever it is in preparation or progress and the CONTRACTOR shall provide proper facilities for such access and inspection.

### **Payment of Employees**

#### Minimum Wages

All mechanics and laborers employed or working upon the construction site work of the PROJECT, will be paid the full amounts due at time of payment computed at wage rates not less than State or Federal Minimum Wage, whichever is higher, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

#### Overtime Payments

An employer is obligated to make proper wage payments under the Fair Labor Standards Act, and the Contract Work Hours Standards Act, for hours worked in excess of 40 hours in a work week. An employee must receive compensation at a rate not less than one and one-half times the regular rate of pay (basic hourly rate) for all hours worked in excess of 40 hours per week.

#### Davis-Bacon Wages

Davis-Bacon Wage Rates apply to projects with DWSRF funding. For Davis-Bacon wage determination purposes, work on most projects will be considered “heavy construction”. Some projects may also include work under the “building construction” category. The wage decision that is current as of ten (10) days prior to the bid opening will be applied to DWSRF funded project. The wage decision applicable to this project can be found within these project documents. It is the responsibility of the bidder to verify the applicable wage decision. For job classifications not listed in the applicable wage decision a project-specific wage determination request must be filed with the federal Department of Labor. The Drinking Water Program will provide the wage determination request application form. The Drinking Water Program must review, sign, and submit the wage determination request application. Wage determination request submittals are expected to be responded to within 30 days;

however, some responses have taken longer than this. For each job classification needed for this project not listed in the applicable wage decision the successful bidder is encouraged to identify these job classifications and notify all parties early on in the project such as during the preconstruction meeting. The contractor bears all responsibility for reimbursing workers at Davis-Bacon wage rates. This includes for job classifications not listed in the wage decision that require wage determination requests. All pay requisitions submitted that include contract expenses must include a Weekly Payroll Labor Standards Compliance Review sheet (**See Appendix**) for each week that the pay requisition covers.

For more information, see [www.dol.gov/whd/govcontracts/dbra.htm](http://www.dol.gov/whd/govcontracts/dbra.htm)

#### Wage Record of Contractor

The CONTRACTOR and each SUBCONTRACTOR shall keep an accurate record showing the names, social security number, and occupation of each and all laborers, workmen, and mechanics employed by them in connection with this PROJECT showing the hours worked, the title of the job, the hourly rate and the actual wages paid to each of them. A copy of such record shall be kept at the job site and shall be open at all reasonable hours to the inspection of the Bureau of Labor Standards, the OWNER, and the Department of Health and Human Services.

#### Retention of Payroll Records

Payroll records, including original field notes and back up material will be maintained during the course of the work by the CONTRACTOR, including payroll of each SUBCONTRACTOR for a period of three years after the completion of the PROJECT.

#### Violations of Labor Standards

In the event of a violation of the Overtime Payments clause the CONTRACTOR and any SUBCONTRACTOR responsible therefore shall be liable for the unpaid wages and shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages.

In the event of any violation by the CONTRACTOR or SUBCONTRACTOR of the labor standards provisions of their contract, the OWNER may, after notice to the CONTRACTOR, suspend further payments until such violations have ceased.

#### Payment to Contractor

At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER'S title to the material and equipment and protect the OWNER'S interest therein, including applicable insurance. The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing approval of payment, and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing the reasons for refusing to approve payment.

In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of presentation of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to ten percent (10%) of said estimate until fifty percent (50%) of the work has been completed. At fifty percent (50%) completion, further partial payments shall be made in full to the CONTRACTOR and no additional amounts retained unless the ENGINEER certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the CONTRACTOR. At fifty percent (50%) completion or any time thereafter when the progress of the WORK is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than ten percent (10%) of the value of the work completed. Upon substantial completion of the work the OWNER may retain an amount sufficient to cover the estimated cost of the work still to be completed.

The CONTRACTOR will indemnify and save the OWNER harmless from all claims growing out of the lawful demand of SUBCONTRACTORS, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. This may be required on a monthly basis. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, the CONTRACTOR'S Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

#### Changes in the Work

The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

The ENGINEER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles the CONTRACTOR to a change in CONTRACT PRICE or TIME, or both, in which event the CONTRACTOR shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days.

The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER. All Change Orders shall be approved by DHHS.

## Changes in Contract Price

The CONTRACT PRICE may be changed only by a CHANGE ORDER. All Change Orders shall be approved by DHHS. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of procedure listed below:

- a. Unit prices previously approved.
- b. An agreed lump sum.
- c. Time and materials

For all change order work performed under c, a fee for overhead and profit will be allowed over and above the "actual cost" of the work. For work performed by a SUBCONTRACTOR, this fee shall not exceed fifteen percent (15%) for the SUBCONTRACTOR and five percent (5%) for the general CONTRACTOR. The general CONTRACTOR'S five percent (5%) is calculated on the SUBCONTRACTOR'S actual cost before the fee is added. The total fee on "actual work" shall not exceed twenty percent (20%). For work performed by the general CONTRACTOR, this fee shall not exceed fifteen percent (15%).

The "actual cost" of work includes the reasonable cost to the CONTRACTOR of the following:

- a. materials used as part of the work;
- b. common and skilled labor and foreman only;
- c. equipment rental for the period employed directly on the work at rates not exceeding the monthly rate contained in the current "Rental Rate Blue Book for Construction Equipment (published by the Equipment Guidebook Company);
- d. additional insurance if required, to cover public liability for injury to persons and property;
- e. Workmen's Compensation Insurance, Federal Social Security and any other costs associated with payrolls and required by law.

The "actual cost" of work does not include the following:

- a. purchase or rental of small tools and buildings;
- b. CONTRACTOR'S supervision of SUBCONTRACTOR (these costs are part of fee outlined above);
- c. use of capital or premium on the bond unless the extra work includes an extension of time approved and authorized by the OWNER.
- d. overhead and profit.

## Access to records

The OWNER, DHHS, Maine Municipal Bond Bank and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of CONTRACTORS which are pertinent to this PROJECT in order to make audits, examinations, excerpts, and transcripts.

Expiration of right of access. The rights of access shall last as long as the records are retained. The minimum retention period is three years.

## Executive Order 12549--Debarment and suspension

Source: The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1. (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Sec. 2. To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Sec. 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Sec. 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Sec. 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Sec. 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Sec. 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.

#### Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020. As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, subrecipients, and borrowers also may not use EPA funds to purchase: a. For the purpose of public safety, security of government facilities, physical security surveillance of critical Page 4 of 29 infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). b. Telecommunications or video surveillance services provided by such entities or using such equipment. c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances: a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to: (1) Procure or obtain, extend or renew a contract to procure or obtain; (2) Enter into a contract (or extend or renew a contract) to procure; or (3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.

## **Appendix A**

### **Wage Rate Requirements**

The recipient agrees to include in all agreements to provide assistance for any construction project carried out in whole or in part with such assistance made available by a drinking water revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12), a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as attached hereto entitled "Wage Rate Requirements Under The Clean Water Act, Section 513 and the Safe Drinking Water Act, Section 1450(e)." This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

### **Preamble**

With respect to the Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides sub grants or loans to eligible entities within the State. Typically, the sub recipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring sub recipients' compliance with the wage rate requirements set forth herein, those sub recipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the sub recipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring sub recipients' compliance with the wage rate requirements set forth herein, those sub recipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

### **Requirements Under The Consolidated Appropriations Act , 2017 (P.L. 115-31) For Sub recipients That Are Not Governmental Entities :**

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance under the FY2017 Consolidated Appropriations Act with respect to sub recipients that are not governmental entities. If a sub recipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. The recipient or sub recipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>

**Under these terms and conditions , the sub recipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in**

**any solicitation, contract task orders , work assignments, or similar instruments to existing contractors.**

**1. Applicability of the Davis - Bacon (DB) prevailing wage requirements .**

Under the FY 2017 Consolidated Appropriations Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

**2. Obtaining Wage Determinations .**

(a) Sub recipients must obtain proposed wage determinations for specific localities at [www.sam.gov](http://www.sam.gov).

(b) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor [www.sam.gov](http://www.sam.gov) on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor [www.sam.gov](http://www.sam.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from [www.sam.gov](http://www.sam.gov) into the ordering instrument.

(d) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### **3. Contract and Subcontract provisions .**

(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2017 Consolidated and Continuing Appropriations Act, the following clauses:

#### **(1) Minimum wages.**

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub recipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.s](http://www.s) .

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs

reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this

purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the

work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable

predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **4. Contract Provision for Contracts in Excess of \$100,000.**

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **5. Compliance Verification**

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the

appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB . In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The sub recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour

District Office listed at <http://www.dol.gov/whd/america2.htm>

## **Appendix B**

## **FORMS**



## Disadvantaged Business Enterprise Program (DBE) Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

|                         |  |              |                  |
|-------------------------|--|--------------|------------------|
| Prime Contractor Name   |  | Project Name |                  |
| Bid /Proposal No.       | Assistance Agreement ID No. (if known) |              | Point of Contact |
| Address                 |  |              |                  |
| Telephone No.           | Email Address                          |              |                  |
| Issuing/Funding Entity: |  |              |                  |

| I have identified potential DBE certified subcontractors        | <input type="checkbox"/> YES | <input type="checkbox"/> NO |                                |
|---|------------------------------|-----------------------------|--------------------------------|
| If yes, please complete the table below. If no, please explain: |                              |                             |                                |
| Subcontractor Name/<br>Company Name                             | Company Address/Phone/Email  | Est. Dollar<br>Amt.         | Currently<br>DBE<br>Certified? |
|   |                              |                             |                                |
|   |                              |                             |                                |
|   |                              |                             |                                |

Continue on back if needed

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award or financial assistance.



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Section 33.202 (c).

|                                   |                   |
|-----------------------------------|-------------------|
| <b>Prime Contractor Signature</b> | <b>Print Name</b> |
|                                   |                   |
| <b>Title</b>                      | <b>Date</b>       |
|                                   |                   |



## Disadvantaged Business Enterprise Program (DBE) Subcontractor Performance Form

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

|                       |  |  |                  |
|-----------------------|--|--|------------------|
| Subcontractor Name    |  | Project Name                           |                  |
| Bid /Proposal No.     |  | Assistance Agreement ID No. (if known) | Point of Contact |
| Address               |  |  |                  |
| Telephone No.         |  | Email Address                          |                  |
| Prime Contractor Name |  | Issuing/Funding Entity:                |                  |

| Contract Item Number   | Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies | Price of Work Submitted to the Prime Contractor   |
|--|---|---|
|  |   |   |
| DBE Certified By: <input type="checkbox"/> DOT <input type="checkbox"/> SBA<br><input type="checkbox"/> Other: _____ |   | Meets/exceeds EPA certification standards?<br><input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown |

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.202 (c).

|                                   |                   |
|-----------------------------------|-------------------|
| <b>Prime Contractor Signature</b> | <b>Print Name</b> |
|                                   |                   |
| <b>Title</b>                      | <b>Date</b>       |
|                                   |                   |

|                                |                   |
|--------------------------------|-------------------|
| <b>Subcontractor Signature</b> | <b>Print Name</b> |
|                                |                   |
| <b>Title</b>                   | <b>Date</b>       |
|                                |                   |



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form**

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and /or report any concerns regarding the EPA-funded project (e.g. in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the DEP DBE Coordinator at any time during the project period of performance.

|                       |  |                  |
|-----------------------|--|------------------|
| Subcontractor Name    | Project Name                           |                  |
| Bid /Proposal No.     | Assistance Agreement ID No. (if known) | Point of Contact |
| Address               |  |                  |
| Telephone No.         | Email Address                          |                  |
| Prime Contractor Name | Issuing/Funding Entity:                |                  |

| Contract Item Number | <b>Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies</b> | <b>Amount Received by Prime Contractor</b> |
|----------------------|---|--|
|                      |   |  |

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form**

Please use the space below to report any concerns regarding the above EPA-funded project:

|                                |                   |
|--------------------------------|-------------------|
| <b>Subcontractor Signature</b> | <b>Print Name</b> |
|                                |                   |
| <b>Title</b>                   | <b>Date</b>       |
|                                |                   |



### **PROGRESS REPORT OF DBE SUBCONTRACTOR UTILIZATION FORM**

TO ENSURE PROMPT PAYMENT THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH ALL REIMBURSEMENT REQUESTS WHETHER THEY INCLUDE INVOICED AMOUNTS FROM A QUALIFYING WBE OR MBE PARTICIPANT OR NOT:

Municipality/District: \_\_\_\_\_ SRF #: \_\_\_\_\_

Name of Project: \_\_\_\_\_ Contractor: \_\_\_\_\_

Contractor's Payment Request No. \_\_\_\_\_ Period covered by the request \_\_\_\_\_

The accompanying Reimbursement Request includes the following WBE/MBE participation:

| Name & Address of WBE/MBE firm to be paid | WBE                      | MBE                      | Source of Certification, i.e., DOT, EPA or SBA | Amount to be paid this request | Type of Work |
|---|--------------------------|--------------------------|--|--------------------------------|--------------|
|   | <input type="checkbox"/> | <input type="checkbox"/> |  |                                |              |
|   | <input type="checkbox"/> | <input type="checkbox"/> |  |                                |              |
|   | <input type="checkbox"/> | <input type="checkbox"/> |  |                                |              |
|   | <input type="checkbox"/> | <input type="checkbox"/> |  |                                |              |

This attachment must be signed by an authorized representative of the contractor.

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

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

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_



## Owner's Davis-Bacon Compliance Report

Project Name \_\_\_\_\_ SRF Project # C230 \_\_\_\_\_

Project Owner: \_\_\_\_\_

Certified Payrolls Reviewed By: \_\_\_\_\_  
(Printed name of Owner's Representative)

Employee interviews have been conducted in accordance with the contract requirements. Yes  No

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

Prime Contractor's Pay Application No: \_\_\_\_\_ (Note: Only one allowed per Compliance Report)

Application Period: From \_\_\_\_\_ to \_\_\_\_\_

### Check one box and sign below:

- For the application period indicated, there were no certified payrolls reported because there were no workers on the site that were subject to the Davis-Bacon and Related Acts.
- For the application period indicated, the certified payrolls are in compliance with the Davis-Bacon and Related Acts.
- For the application period indicated, the certified payrolls are not in compliance with the Davis-Bacon and Related Acts. A Compliance Report for the corrective action will be submitted ASAP.

### Summary of noncompliant findings and follow up actions needed:

---

---

---

---

---

Owner's Representative Signature  
Page 1 of \_\_\_\_\_

Date



## **Owner's Davis-Bacon Compliance Report**

**List all weekly certified payrolls for the application period:**



## BUILD AMERICA, BUY AMERICA (BABA) ACT

In Title IX of the IIJA, Congress passed the Build America, Buy America (BABA) Act, which establishes strong and permanent domestic sourcing requirements across all Federal financial assistance programs for infrastructure.

By May 14, 2022, agencies must ensure that all applicable programs comply with section 70914 of the Act, including by the incorporation of a Buy America preference in the terms and conditions of each award with an infrastructure project. The Act requires the following Buy America preference:

- (1) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- (3) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

### Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements. When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

The nationwide waiver to the BABA law permits the use of products when they occur in de minimis components of such projects funded by the Act that may otherwise be prohibited under the Act. Funds used for such de minimis components cumulatively may comprise no more than a total of 5 percent of the total cost of the project. The Contractor is required to provide the necessary documentation. Owners should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation (i.e., invoices) as to those items in their project files, and must summarize in reports the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the calculations by which they determined the total cost of the project. The Owner shall maintain files on the project site for this documentation. The files shall be made available to State and Federal officials for inspection upon request.



**CERTIFICATION BY THE OWNER  
OF COMPLIANCE WITH THE  
USE OF BUILD AMERICA, BUY AMERICA ACT  
enacted on May 14, 2022**

*(To be attached to each Utility Construction SRF requisition submitted for payment)*

We, the Owner named, \_\_\_\_\_, having obtained funding from the State of Maine, State Revolving Fund (SRF), for the Utility Construction Project named

\_\_\_\_\_, hereby submit to the SRF program, certification from each contractor working on the Utility Construction Project that the use of Domestic Content Procurement in the construction of the project complies with the law, or that a waiver has been obtained from the U.S. Environmental Protection Agency. Thereby, it is to the best of the Owner's knowledge that the Project is in compliance with the Build America, Buy America Act..

---

Signature of Official

Printed name

---

Date

Attachment: Certification by Contractor



**CERTIFICATION BY CONTRACTOR  
OF COMPLIANCE WITH THE  
USE OF BUILD AMERICA, BUY AMERICA ACT  
enacted on May 14, 2022**

*(To be attached to each Utility Construction payment application)*

We, the Prime Contractor and Subcontractors, as named below, hereby certify that the use of domestically procured iron, steel, manufactured products, and construction materials in the construction of the Project named \_\_\_\_\_, being requested in the Utility Construction payment application (or invoice) # \_\_\_\_\_ and dated \_\_\_\_\_, complies with the Build America, Buy America Act, or that a waiver been obtained from the U.S. Environmental Protection Agency.

Prime Contractor Name: \_\_\_\_\_

---

|                       |              |      |
|-----------------------|--------------|------|
| Signature of Official | Printed name | Date |
|-----------------------|--------------|------|

---

## State Revolving Fund (SRF)

The EPA has issued a public interest waiver for De Minimis components. An Owner wishing to use this waiver should consult with their contractor(s) to maintain an itemized list to track the components covered under De Minimis. The Owner may create their own format for the list or use this sample form.

Owner:

Loan #:

Project Name: \_\_\_\_\_

Products that qualify for a *de minimis* waiver cumulatively may comprise no more than a total of five percent of the total project cost. The five percent threshold can be used for any products, independent on the purpose of the project. This waiver is not additive with the existing American Iron and Steel national *de minimis* waiver. The EPA will review this waiver every five years after the date on which the waiver is issued (Current waiver issued Oct. 21, 2022).

Total Cost of Project:

5% Limit:

Use additional sheets as necessary

### Total Cost of Components deemed to be De Minimis:

Completed by:

Company:

Title:

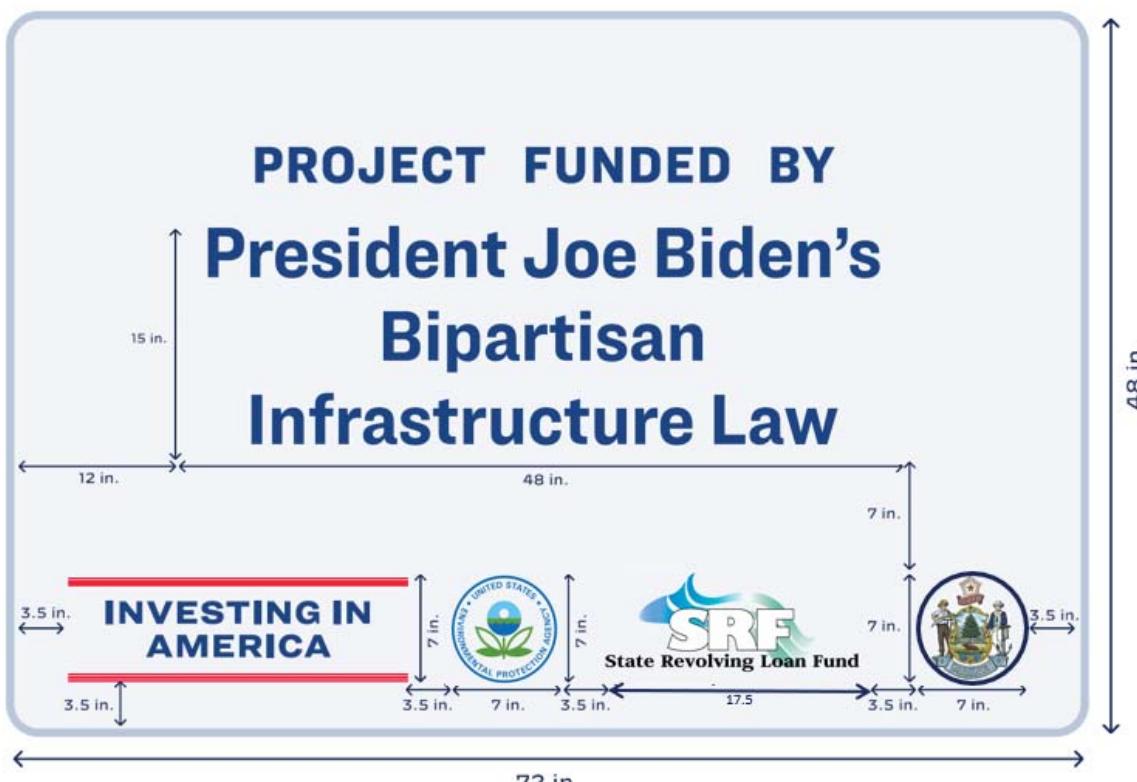
Signature:

Date:

## **Appendix C** **PROJECT SIGNS**

## **Bipartisan Infrastructure Law Signage**

To be displayed on all projects with BIL funding



[High Resolution Images](#)

["Investing in America"](#)

[EPA Seal](#)

[SRF Logo](#)

[Maine State Seal](#)

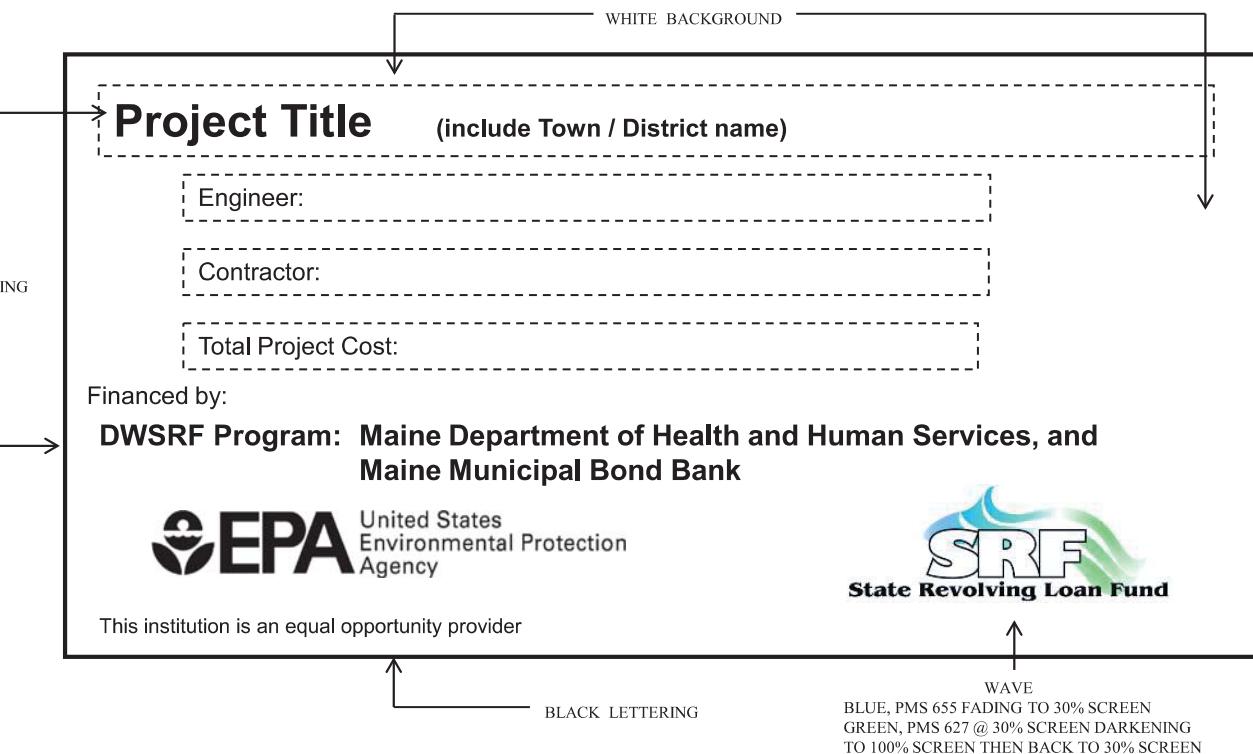
| COLOR  | CMYK          | RGB             | HEX     | PMS          |
|--|---------------|-----------------|---------|--------------|
| <span style="color: #003366;">█</span> <b>Blue</b>             | 83, 48, 0, 48 | 22 / 68 / 132   | #164484 | PMS 7687 C   |
| <span style="color: #FF0000;">█</span> <b>Red</b>              | 0, 100, 81, 0 | 255 / 0 / 49    | #FF0031 | PMS 185 C    |
| <span style="background-color: #F0F0F0;">█</span> <b>White</b> | 2, 2, 0, 3    | 242 / 244 / 248 | #F2F4F8 | Bright White |

Sign Dimensions: 4-ft x 6-ft x  $\frac{3}{4}$ -in

Material: Exterior Plywood (A-B GRADE)

Font: **Arial Bold**

## Temporary Construction Sign for DWSRF Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

**ATTACHMENT C**  
**BRUNSWICK & TOPSHAM WATER DISTRICT SPECIFICATIONS**

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



Endorsed By



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# **GUIDELINES FOR USE OF EJCDC® C-700, STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT**

## **1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT**

EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), is the foundation document for the EJCDC Construction Series. The General Conditions define the basic rights, responsibilities, risk allocations, and contractual relationship of the Owner and Contractor, and establish how the Contract is to be administered.

## **2.0 OTHER DOCUMENTS**

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

These General Conditions have been prepared for use with either EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price), or EJCDC® C-525, Agreement Between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018 Editions). The provisions of the General Conditions and the Agreement 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® C-800, Supplementary Conditions of the Construction Contract (2018).

The full EJCDC Construction series of documents is discussed in the EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

## **3.0 ORGANIZATION OF INFORMATION**

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, [www.ejcdc.org](http://www.ejcdc.org), and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

## **4.0 EDITING THIS DOCUMENT**

Remove these Guidelines for Use. Some users may also prefer to remove the two cover pages.

Although it is permissible to revise the Standard EJCDC Text of C-700 (the content beginning at page 1 and continuing to the end), it is common practice to leave the Standard EJCDC Text of C-700 intact and unaltered, with modifications and supplementation of C-700's provisions set forth in EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018). If the Standard Text itself is revised, the

user must comply with the terms of the License Agreement, Paragraph 4.0, Document-Specific Provisions, concerning the tracking or highlighting of revisions. The following is a summary of the relevant License Agreement provisions:

1. The term “Standard EJCDC Text” for C-700 refers to all text prepared by EJCDC in the main body of the document. Document covers, logos, footers, instructions, or copyright notices are not Standard EJCDC Text for this purpose.
2. During the drafting or negotiating process for C-700, it is important that the two contracting parties are both aware of any changes that have been made to the Standard EJCDC Text. Thus, if a draft or version of C-700 purports to be or appears to be an EJCDC document, the user must plainly show all changes to the Standard EJCDC Text, using “Track Changes” (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.
3. If C-700 has been revised or altered and is subsequently presented to third parties (such as potential bidders, grant agencies, lenders, or sureties) as an EJCDC document, then the changes to the Standard EJCDC Text must be shown, or the third parties must receive access to a version that shows the changes.
4. Once the document is ready to be finalized (and if applicable executed by the contracting parties), it is no longer necessary to continue to show changes to the Standard EJCDC Text. The user may produce a final version of the document in a format in which all changes are accepted, and the document at that point does not need to include any “Track Changes,” redline/strikeout, highlighting, or other indication of additions and deletions to the Standard EJCDC Text.

## 5.0 LICENSE AGREEMENT

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCDC® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at [www.ejcdc.org](http://www.ejcdc.org) and the websites of EJCDC’s sponsoring organizations.

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

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

requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
- c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
- d. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

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

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

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

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

## 1.02 Terminology

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

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

## **ARTICLE 2—PRELIMINARY MATTERS**

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

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

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

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

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

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

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

**2.04 *Preconstruction Conference; Designation of Authorized Representatives***

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

**2.05 *Acceptance of Schedules***

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

**2.06 *Electronic Transmittals***

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

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

### 3.01 *Intent*

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

### 3.02 *Reference Standards*

#### A. *Standards Specifications, Codes, Laws and Regulations*

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

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

### 3.03 *Reporting and Resolving Discrepancies*

#### A. *Reporting Discrepancies*

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

#### B. *Resolving Discrepancies*

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

### 3.04 *Requirements of the Contract Documents*

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

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

### 3.05 *Reuse of Documents*

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

## ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

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

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

### 4.02 *Starting the Work*

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

### 4.03 *Reference Points*

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

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

**4.04 *Progress Schedule***

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

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

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

D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:

1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.

E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:

1. The circumstances that form the basis for the requested adjustment;
2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.

G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

### **5.01 Availability of Lands**

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

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

5.02 *Use of Site and Other Areas*

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

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

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

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

5.03 *Subsurface and Physical Conditions*

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

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

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

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

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

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

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
2. is of such a nature as to require a change in the Drawings or Specifications;
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

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

B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in

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

- a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
- b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
- c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

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

F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

## 5.05 *Underground Facilities*

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

3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.

C. *Engineer's Review:* Engineer will:

1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown

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

- a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
- b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
- c. Contractor gave the notice required in Paragraph 5.05.B.

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

## 5.06 *Hazardous Environmental Conditions at Site*

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

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

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

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

of construction to be employed by Contractor, and safety precautions and programs incident thereto;

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.

H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

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

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

## **ARTICLE 6—BONDS AND INSURANCE**

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

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

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

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

#### 6.02 *Insurance—General Provisions*

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

Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

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

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

#### 6.03 *Contractor's Insurance*

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

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

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

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

**6.05 *Property Losses; Subrogation***

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

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

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.

C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.

D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

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

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

### **ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

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

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

#### 7.02 *Supervision and Superintendence*

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

#### 7.03 *Labor; Working Hours*

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

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

7.04 *Services, Materials, and Equipment*

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

7.05 *"Or Equals"*

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

- 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
- 3) has a proven record of performance and availability of responsive service; and
- 4) is not objectionable to Owner.

b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:

- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
- 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.

E. *Treatment as a Substitution Request:* If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 Substitutes

A. *Contractor's Request; Governing Criteria:* Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

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

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

#### 7.07 *Concerning Subcontractors and Suppliers*

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

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

#### 7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

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

7.10 *Taxes*

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

7.11 *Laws and Regulations*

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

7.12 *Record Documents*

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

### 7.13 *Safety and Protection*

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

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

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

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

3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*
  - a. Contractor shall submit the number of copies required in the Specifications.
  - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
2. *Samples*
  - a. Contractor shall submit the number of Samples required in the Specifications.
  - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will

document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

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

**D. *Resubmittal Procedures for Shop Drawings and Samples***

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

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

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

- d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
- 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

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

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

7.18 *Indemnification*

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

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

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

## ARTICLE 8—OTHER WORK AT THE SITE

### 8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

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

#### 8.02 *Coordination*

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

#### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

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

## ARTICLE 9—OWNER'S RESPONSIBILITIES

### 9.01 *Communications to Contractor*

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

### 9.02 *Replacement of Engineer*

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

### 9.03 *Furnish Data*

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

### 9.04 *Pay When Due*

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

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

## ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

### 10.01 *Owner's Representative*

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

### 10.02 *Visits to Site*

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

### 10.03 *Resident Project Representative*

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

### 10.04 *Engineer's Authority*

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

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

**10.05 *Determinations for Unit Price Work***

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

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

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

**10.07 *Limitations on Engineer's Authority and Responsibilities***

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

**10.08 *Compliance with Safety Program***

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

## **ARTICLE 11—CHANGES TO THE CONTRACT**

### **11.01 *Amending and Supplementing the Contract***

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

### **11.02 *Change Orders***

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

### **11.03 *Work Change Directives***

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

B. If Owner has issued a Work Change Directive and:

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

**11.04 *Field Orders***

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

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

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

**11.06 *Unauthorized Changes in the Work***

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

**11.07 *Change of Contract Price***

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

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).

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

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

#### 11.08 *Change of Contract Times*

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

#### 11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

##### B. *Change Proposal Procedures*

1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
  - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
  - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

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

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

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

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

#### 11.10 *Notification to Surety*

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

### ARTICLE 12—CLAIMS

#### 12.01 *Claims*

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

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

C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

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

### 13.01 *Cost of the Work*

A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or

2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

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

- 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
- 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
- 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

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

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

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

D. *Contractor's Fee*

- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
  - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
  - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
    - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
    - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change

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

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

#### 13.02 *Allowances*

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

#### 13.03 *Unit Price Work*

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

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

**E. *Adjustments in Unit Price***

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

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

**14.01 *Access to Work***

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

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

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

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

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

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

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

#### 14.03 *Defective Work*

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

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

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

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

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

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

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

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

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

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

#### 15.01 *Progress Payments*

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

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

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

**C. *Review of Applications***

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

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

**D. *Payment Becomes Due***

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

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

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

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
- c. Contractor has failed to provide and maintain required bonds or insurance;
- d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
- e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
- f. The Work is defective, requiring correction or replacement;
- g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- h. The Contract Price has been reduced by Change Orders;
- i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
- j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
- k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
- l. Other items entitle Owner to a set-off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

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

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

#### 15.03 *Substantial Completion*

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

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

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

#### 15.04 *Partial Use or Occupancy*

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

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

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

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

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

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

#### 15.07 Waiver of Claims

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

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

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

**15.08 Correction Period**

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such adjacent areas;
2. correct such defective Work;
3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.

C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.

D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

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

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

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

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

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

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects,

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

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### **16.03 Owner May Terminate for Convenience**

A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

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

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The

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

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

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

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

## **ARTICLE 18—MISCELLANEOUS**

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

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

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

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

**18.03 *Cumulative Remedies***

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

**18.04 *Limitation of Damages***

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

**18.05 *No Waiver***

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

**18.06 *Survival of Obligations***

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

**18.07 *Controlling Law***

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

**18.08 *Assignment of Contract***

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

**18.09 *Successors and Assigns***

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

**18.10 *Headings***

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

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.

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

Prepared By



Endorsed By



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# **GUIDELINES FOR USE OF EJCDC® C-520, AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

## **1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT**

This Agreement form is specifically intended for stipulated price (fixed price) contracts—that is, contracts in which Owner and Contractor identify specific lump sums and unit prices as Contractor's compensation for performing the Work. For construction contracts in which the Contract Price is primarily based on costs incurred during construction, users should select EJCDC® C-525, Agreement between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018).

In construction contracting, as a general matter the “agreement” is the legal instrument executed (signed) by the project owner and the construction contractor, binding the parties to the terms of the contract. See CSI Project Delivery Practice Guide (2011), Section 11.1.2, p. 210, and CSI Construction Specification Practice Guide (2011), Section 5.1, p. 75. This EJCDC Agreement form serves that basic function, by identifying the parties and the Contract Documents, and establishing the Contract Price and Contract Times.

This Agreement form is drafted to be flexible enough to be used on projects that are competitively bid, and for public and private contracts that are negotiated or awarded through a proposal process or otherwise. On competitively bid projects, the following documentary information would typically be made available to bidders:

- Bidding Requirements, which include the Advertisement or invitation to bid, the Instructions to Bidders, and the Bid Form that is suggested or prescribed, all of which provide information and guidance for all Bidders, and Bid Form supplements (if any) such as Bid Bond and Qualifications Statement.
- Contract Documents, which include the Agreement, performance and payment bonds, the General Conditions, the Supplementary Conditions, the Drawings, and the Specifications.
- Documents referred to in the Supplementary Conditions or elsewhere as being of interest to bidders for reference purposes, but which are not Contract Documents.

Together, the Bidding Requirements and the Contract Documents are referred to as the Bidding Documents. (The terms “Bidding Documents,” “Bidding Requirements,” and “Contract Documents” are defined in Article 1 of the General Conditions.) The Bidding Requirements are not Contract Documents because much of their substance pertains to the relationships prior to the award of the Contract and has little effect or impact thereafter. Many contracts are awarded without even going through a bidding process, and thus have no Bidding Requirements, illustrating that the bidding items are typically superfluous to the formation of a binding and comprehensive construction contract. In some cases, however, a bid or proposal will contain numerous line items and their prices; in such case the actual bid or proposal document may be attached as an exhibit to the Agreement to avoid extensive rekeying.

## **2.0 OTHER DOCUMENTS**

As noted above, before selecting C-520 for a specific project, confirm that the Contract will be based on lump sum (stipulated price) (which may include unit prices), and not on cost plus fee—for cost plus fee contracts, use C-525.

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

While preparing this document for use on a specific project, the user may decide to revise or supplement some of the standard provisions. When such changes are made, the user should review whether corresponding changes are needed in the following related EJCDC documents:

| EJCDC Doc. No. | Document Title   | Edition |
|----------------|--|---------|
| C-200          | Instructions to Bidders for Construction Contract        | 2018    |
| C-410          | Bid Form for Construction Contract                       | 2018    |
| C-700          | Standard General Conditions of the Construction Contract | 2018    |
| C-800          | Supplementary Conditions of the Construction Contract    | 2018    |

Other documents that provide additional information or guidance for the use of this document include the following:

| EJCDC Doc. No. | Document Title                                      | Edition |
|----------------|---|---------|
| C-001          | Commentary on the 2018 EJCDC Construction Documents | 2018    |

### **3.0 ORGANIZATION OF INFORMATION**

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, [www.ejcdc.org](http://www.ejcdc.org), and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

### **4.0 GUIDANCE NOTES AND NOTES TO USER**

EJCDC Documents include Guidance Notes and Notes to User to provide guidance regarding the preparation of Project specific documents. These notes are intended for use by the User in the preparation of the document and are not intended to be included in the completed document. Guidance Notes and Notes to User are lightly shaded to distinguish them from the proposed text of the Agreement. As a project-specific Agreement is prepared and made ready for issuance to bidders or execution by the parties, all shaded text (Guidance Notes and Notes to Users) should be deleted.

Guidance Notes provide information regarding the paragraphs which follow, including reasons for the paragraphs, discussions of best practices, and alternate approaches for different situations.

Notes to User provide specific information for editing the document. When alternate paragraphs for different situation are presented, explanations on how to select the most appropriate alternate will be provided, with direction to delete those paragraphs not used.

## 5.0 EDITING THIS DOCUMENT

5.1 It is intended that this document be edited for each Contract. Guidelines for editing include:

- A. Remove the cover pages which consist of the title pages and these Guidelines for Use.
- B. Type in required information as indicated by brackets ([ ]). Bracketed text will usually provide instructions for what is to be inserted in place of the brackets. Delete brackets and change formatting to match existing text after project specific text has been added, e.g. change “[Project Name]” to “Peach Street Renovation” (without brackets or bold, or quotation marks).
- C. Fill in blanks, if any. It will be more common for information to be inserted by user to be indicated by a prompt in brackets, as described in Paragraph B above, rather than by an underline-style blank.
- D. Most Notes to User are presented before the text to which they apply; some Notes to Users are interspersed in the text, usually within brackets. Delete all “Notes to User” after reviewing each note and taking appropriate action. Delete all associated numbering and brackets.
- E. Complete tables.
- F. Delete Guidance Notes.

## 6.0 LICENSE AGREEMENT

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCD® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at [www.ejcdc.org](http://www.ejcdc.org) and the websites of EJCD's sponsoring organizations.

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

This Agreement is by and between **[name of contracting entity]** ("Owner") and **[name of contracting entity]** ("Contractor").

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

Owner and Contractor hereby agree as follows:

## ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **[Brief description of Work]**

## ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **[Brief description of Project]**

## ARTICLE 3—ENGINEER

**Guidance Notes**—If an entity or individual other than the design engineer will serve as Owner's representative during construction, then make appropriate revisions and additions to this Agreement, the General Conditions, the Supplementary Conditions, and other Contract Documents regarding the construction-phase roles and duties of the design engineer and such other entity or individual. Such revisions may include using a designation other than "Engineer" for the representative named in Paragraph 3.01 below, and expressly naming the design firm (for example, "ABC Engineering, Inc.") instead of referring to "Engineer" in Paragraph 3.02.

3.01 The Owner has retained **[insert name of engineering firm]** ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by **[insert "Engineer" if an entity has been identified as such in Paragraph 3.01, and that same entity prepared the design; or indicate by name the entity other than Engineer that prepared the design]**.

## ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

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

### Notes to User

Select one of the two Contract Times paragraphs (either Paragraph 4.02 or Paragraph 4.03), and delete the other. The first option, Paragraph 4.02, uses dates for the time of completion; Paragraph 4.03 uses

number of days. (References in these Notes will be to paragraph numbers as published—the final numbering will change as paragraphs, such as either 4.02 or 4.03, are deleted during the finalization process.)

1. Paragraph 4.04, which establishes binding intermediate Milestones, may be used with either Paragraph 4.02 or Paragraph 4.03; or Paragraph 4.04 may be deleted if the Contract does not impose Milestone requirements.
2. In the common case in which Owner elects to predetermine fixed dates or a fixed number of days for completion of the Work, such dates or number of days should be inserted in the selected Contract Times paragraph (either Paragraph 4.02 or Paragraph 4.03) below prior to the bidding or other contractor selection process. If the time for completion will be determined through negotiation or a bidding process that allows bidders to specify the time for completion (for example, a price-plus-time—A + B—award process), then leave the blanks below open until the Contract is finalized (typically after the Successful Bidder has been determined and its proposed completion time accepted).
3. If the Work is divided into individual sections that have differing completion dates (or number of days for completion), then the selected Contract Times paragraph (either Paragraph 4.02 or Paragraph 4.03) below should be expanded to specify the completion dates (or number of days) for each section. Such completion dates may be categorized as Milestones under Paragraph 4.04.

#### 4.02 *Contract Times: Dates*

- A. The Work will be substantially complete on or before **[date]**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **[date]**.

#### 4.03 *Contract Times: Days*

- A. The Work will be substantially complete within **[number]** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **[number]** days after the date when the Contract Times commence to run.

#### **Notes to User**

1. “Milestone” in Paragraph 4.04 is a defined term.
2. For each Milestone, indicate the event that must be attained, such as “Substantial Completion of Lift Station 1” and the date or number of days from commencement by which the event must be attained.
3. In Paragraph 4.04 use a specific date for attainment of the Milestone if Paragraph 4.02 above (Contract Times: Date) has been selected; use the number of days from commencement of Contract Times for the Milestone if Paragraph 4.03 (Contract Times: Days) has been selected.
4. If the Contract does not include Milestones, delete Paragraph 4.04.

#### 4.04 *Milestones*

- A. Parts of the Work must be substantially completed on or before the following Milestone(s):

1. Milestone 1 **[event & date/days]**

2. Milestone 2 [event & date/days]
3. Milestone 3 [event & date/days]

#### Guidance Notes—Liquidated Damages

1. Liquidated damages are commonly used to address unexcused late completion of the Work. The topic is discussed in the Commentary. Delete Paragraph 4.05, Liquidated Damages, if such damages will not be established in the specific Contract.
2. At Substantial Completion, the Owner is able to use the Work for its intended purpose, by definition. See General Conditions, Paragraph 1.01.A. Achieving Substantial Completion is typically a critical deadline, and the associated damages for missing this deadline are typically significant. Paragraph 4.05.A.1 is the location for stating a liquidated amount for such damages, usually on a per-day basis.
3. The subsequent failure to complete the punch list tasks and bring the Work to a complete close by the final completion date may also result in some degree of damages to Owner—though typically these damages are significantly less than the daily damages for not achieving Substantial Completion on time. Some users may choose to establish liquidated damages only for the failure to achieve Substantial Completion. If that is the case, delete Paragraph 4.05.A.2 below.
4. If failure to achieve a Milestone on time is of such consequence that the assessment of liquidated damages is warranted for the failure to reach the Milestone on time, then retain and complete Paragraph 4.05.A.3; if not, delete it. Add additional similar paragraphs for any additional Milestones subject to a liquidated damages assessment. Liquidated damages for Milestones might, in some cases, be additive to liquidated damages for failing to timely attain Substantial Completion; if so Paragraphs 4.05.A.3 and 4.05.A.4 should be revised accordingly.

#### 4.05 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
  1. *Substantial Completion:* Contractor shall pay Owner \$[number] for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$[number] for each day that expires after such time until the Work is completed and ready for final payment.
  3. *Milestones:* Contractor shall pay Owner \$[number] for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial

Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.

4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

**Notes to Users**—If early completion would be a benefit to Owner, then consider retaining and completing the bonus clause below as Paragraph 4.05.C. The daily bonus for early completion need not be exactly the same as the daily post-Substantial Completion liquidated damages amounts, but presumably the two amounts will be reasonably compatible. If no bonus will be offered, then delete 4.05.C.

- C. *Bonus:* Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall pay Contractor \$[number] for each day prior to the time specified above for Substantial Completion (as duly adjusted pursuant to the Contract) that the Work is substantially complete. The maximum value of the bonus will be limited to \$[number].

#### Guidance Notes—Special Damages

If liquidated damages are used to address late completion by Contractor, EJCDC recommends developing daily liquidated damages amounts that comprehensively account for the full range of Owner's damages, including but not limited to loss of beneficial use; extended financing expenses; costs of additional engineering, construction observation, inspection, and administrative services; and potential fines or penalties. This comprehensive approach is well established and generally enforceable. If the recommended and conventional path is followed, and a comprehensive daily liquidated damages amount has been established in Paragraph 4.05 above, then delete the clause that follows, Paragraph 4.06, Special Damages, and rely solely on Paragraph 4.05, Liquidated Damages, to cover the full scope of damage done by late Contractor completion.

1. Some Owners prefer to charge a Contractor that has not completed the Work on schedule for Owner's additional hard-dollar costs in specified categories, such as regulatory fines and penalties, or extended engineering, construction observation, inspection, and administrative services; these charges (referred to here as "special damages") are levied on top of the daily liquidated damages amount. Those users that choose the "liquidated damages plus specified actual hard dollar costs" (special damages) approach may use the following Paragraph 4.06, Special Damages, revised as needed to reflect the intended scope of the special damages, together with the liquidated damages provisions in Paragraph 4.05, Liquidated Damages, above. It is very important if this approach is followed to be certain that the liquidated damages amount does not already include or rely in part on the potential for incurring these very same special damages costs.
2. Finally, note that Paragraph 4.06.B below does not refer to fines or penalties imposed by third parties. In the typical case, such fines and penalties are linked to Substantial Completion, and are not applicable to delays in final completion of the Work.

#### 4.06 Special Damages

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

### ARTICLE 5—CONTRACT PRICE

#### Guidance Notes—Contract Price

1. Depending upon the particular Contract's pricing structure, use Paragraph 5.01.A alone (lump sum with no Unit Price Work items); Paragraphs 5.01.A, 5.01.B, and 5.01.C together (lump sum plus Unit Price items); Paragraph 5.01.B alone (Unit Prices for all Work); or Paragraph 5.01.D alone (price based on contents of incorporated Contractor's Bid), and delete those not used and renumber accordingly. If Paragraph 5.01.D is used, Contractor's Bid is attached as an exhibit and listed as a Contract Document in Article 7 below.
2. With respect to Paragraph 5.01.B concerning Unit Prices, if adjustment prices for variations from stipulated Base Bid or other baseline quantities have been agreed to, insert appropriate provisions.
3. Performance Requirements and Damages. In some cases, the construction contract will contain performance requirements that must be met by the equipment, systems, or facilities constructed or furnished by Contractor. Performance provisions most commonly will be located in the Specifications. On some projects the Owner and Contractor may contractually stipulate specific damages for failure to meet the performance requirements. It may be useful to provide a cross-reference to such provisions here in Article 5 of the Agreement (as a new Paragraph 5.02), or in some cases to expressly state the stipulated damages amounts here because of their importance to the pricing of the Contract, which is one of the primary subjects of the Agreement.

In addition to, or as an alternative to imposition of stipulated damages to compensate Owner for not receiving its full contractual performance entitlement, the performance provisions in the Specifications may identify other Owner remedies for Contractor's failure to meet the performance requirements, such as rejection of the items in question; correction remedies; exercise of warranty rights; recovery of actual damages; and acceptance of the underperforming items coupled with a reduction in Contract Price.

Typical damages for underperformance might be for reduced production or treatment, or for the costs of increased electricity or chemical consumption over the life of the equipment. It is important when drafting damages provisions to clarify whether the availability of underperformance damages is

meant to close off other potential remedies that will be owed in the event of specific levels of underperformance.

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

A. For all Work other than Unit Price Work, a lump sum of \$[number].

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

| Unit Price Work   |             |      |                    |            |                |
|---|-------------|------|--------------------|------------|----------------|
| Item No.  | Description | Unit | Estimated Quantity | Unit Price | Extended Price |
|   |             |      |                    | \$         | \$             |
|   |             |      |                    | \$         | \$             |
|   |             |      |                    | \$         | \$             |
|   |             |      |                    | \$         | \$             |
|   |             |      |                    | \$         | \$             |
| Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities) |             |      |                    |            | \$             |

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$[number].

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

## ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the [ordinal number, such as 5th] day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the

Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

#### Guidance Notes—Retainage

1. In Paragraph 6.02.A.1.a, the percentage stated should be that percentage to be paid to Contractor. Thus, if retainage is 10%, indicate "90" in Paragraph 6.02.A.1.a.
2. Paragraph 6.02.A.1.a(1) provides that after the Work is 50% complete (based on value of Work completed), Owner will no longer take retainage from progress payments, if performance of the Work has been satisfactory. This practice rewards and incentivizes good work and compliance with the schedule. If Owner is not able or willing to offer this incentive, delete Paragraph 6.02.A.1.a(1).
3. Although Paragraph 6.02.A.1.a(1), if utilized, provides for retainage to be reduced after 50% of the Work is complete, the standard provisions in Paragraph 6.02 do not provide for an early return of retainage—Contractor's first opportunity to receive retained funds occurs at Substantial Completion (see Paragraph 6.02.B). If a specific project involves partial utilization of a portion of the Work or other special factors, the user may wish to include a supplemental provision that allows for a partial early return of retainage, under specified conditions.
4. As an alternative to retainage, some Owners allow the Contractor to receive 100% of each progress payment, provided that the Contractor has provided an irrevocable letter of credit or similar instrument that allows the Owner access to the Contractor's funds under prescribed conditions. Any such alternative mechanism requires custom drafting and participation of legal counsel.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
  - a. [number] percent of the value of the Work completed (with the balance being retainage).
    - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
    - b. [number] percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

**Notes to Users**—Typical values used in Paragraph 6.02.B are 100 percent and 200 percent respectively, subject to Laws and Regulations specific to the Project.

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to [number] percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less [number]

percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

**6.03 *Final Payment***

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

**6.04 *Consent of Surety***

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

**6.05 *Interest***

- A. All amounts not paid when due will bear interest at the rate of [number] percent per annum.

## **ARTICLE 7—CONTRACT DOCUMENTS**

**7.01 *Contents***

- A. The Contract Documents consist of all of the following:

**Notes to Users**—If any of the items listed below are not to be included as Contract Documents, remove such item from the list and renumber the remaining items.

1. This Agreement.
2. Bonds:
  - a. Performance bond (together with power of attorney).
  - b. Payment bond (together with power of attorney).
3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).

**Notes to Users**—Use either Paragraph 6 or 7, delete the paragraph not used.

6. Drawings (not attached but incorporated by reference) consisting of [number] sheets with each sheet bearing the following general title: **[title on Drawings]**.
7. Drawings listed on the attached sheet index.

**Notes to Users**—In the following paragraph list the numbers and dates of those Addenda that modified the Contract Documents; do not list Addenda that only affected the Bidding Requirements, and therefore should not be Contract Documents. See EJCDC® C-001 Commentary on the 2018 EJCDC Construction Documents (2018).

8. Addenda (numbers [number] to [number], inclusive).

### Guidance Notes—Exhibits that are Contract Documents

1. In the following paragraph list exhibits (if any) to the Agreement that merit the status of Contract Documents.
2. As noted in the introduction to this Agreement, in the typical case bidding-related documents such as the Instructions to Bidders and Bid are not included as Contract Documents. Include Contractor's Bid as a Contract Document here only as a matter of necessity, for example if the Bid contains numerous line items and their prices, and rekeying such information would be burdensome and susceptible to error.
3. List other required attachments (if any), such as documentation submitted by Contractor prior to Notice of Award and documents required by funding or lending agencies.
4. If Contractor is required in this Contract to accept assignment of a procurement contract, previously entered into by Owner (as "Buyer") with a manufacturer or distributor (as "Seller") for the direct purchase of goods (most commonly equipment) and related special services, include the procurement contract as a Contract Document by listing it as a lettered item under Paragraph 7.01.A.9—"Assigned Procurement Contract between Owner (Buyer) and Seller, dated [date]." The contractual wording governing the assignment of a procurement contract should be located in the Supplementary Conditions; see Supplementary Conditions, Paragraph SC-18.08.B. For additional information on assigning a procurement contract, refer to EJCDC® P-001, Commentary on the EJCDC Procurement Documents.
5. If a Geotechnical Baseline Report or a Geotechnical Data Report is used, include these reports as Contract Documents by listing them as lettered items under Paragraph 7.01.A.9. For a further discussion of GBRs and GDRs see EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

9. Exhibits to this Agreement (enumerated as follows):

- a. **[list exhibits]**

10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Change Orders.
  - d. Field Orders.
  - e. Warranty Bond, if any.

- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

### 8.01 Contractor's Representations

**Notes to Users**—Modify the following representations to suit the specific Project. For example: change or delete Paragraph 8.01.A.2 if Contractor was restricted from visiting the Site prior to entering into the Contract; change or delete Paragraph 8.01.A.4 and 5 if there are no reports or drawings of the type referred to.

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

9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### 8.02 *Contractor's Certifications*

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

#### 8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

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

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

**Guidance Notes—Signing and Dating Agreement:**

1. See Article 20 of the Instructions to Bidders and correlate procedures for format and signing of the documents.
2. The Effective Date of the Contract stated above and the dates of any construction performance bond (EJCDC® C-610, Performance Bond (2018) or other) and construction payment bond (EJCDC® C-615, Payment Bond (2018) or other) should be the same, if possible. In no case should the date of any bonds be earlier than the Effective Date of the Contract.

Owner:

\_\_\_\_\_  
*(typed or printed name of organization)*  
By: \_\_\_\_\_  
*(individual's signature)*  
Date: \_\_\_\_\_  
*(date signed)*  
Name: \_\_\_\_\_  
*(typed or printed)*  
Title: \_\_\_\_\_  
*(typed or printed)*  
  
Attest: \_\_\_\_\_  
*(individual's signature)*  
Title: \_\_\_\_\_  
*(typed or printed)*

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_  
  
Designated Representative:  
Name: \_\_\_\_\_  
*(typed or printed)*  
Title: \_\_\_\_\_  
*(typed or printed)*  
Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contractor:

\_\_\_\_\_  
*(typed or printed name of organization)*  
By: \_\_\_\_\_  
*(individual's signature)*  
Date: \_\_\_\_\_  
*(date signed)*  
Name: \_\_\_\_\_  
*(typed or printed)*  
Title: \_\_\_\_\_  
*(typed or printed)*  
*(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*  
Attest: \_\_\_\_\_  
*(individual's signature)*  
Title: \_\_\_\_\_  
*(typed or printed)*  
Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_  
  
Designated Representative:  
Name: \_\_\_\_\_  
*(typed or printed)*  
Title: \_\_\_\_\_  
*(typed or printed)*  
Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

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

**SECTION 00836**  
**CONTRACTOR'S AFFIDAVIT**

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

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

Before me, the undersigned, a \_\_\_\_\_  
(Notary Public, Justice of Peace, Alderman)  
in and for said County and State personally appeared, \_\_\_\_\_  
(Individual, Partner or duly

\_\_\_\_\_  
authorized representative of corporate contractor) who being duly sworn according to law  
deposes and says that the cost of all the Work, and outstanding claims and indebtedness of whatever  
nature arising out of the performance of the contract between

\_\_\_\_\_  
(Owner)  
and \_\_\_\_\_ of \_\_\_\_\_  
(Contractor)

dated \_\_\_\_\_ for the construction of the \_\_\_\_\_  
(Agreement Date) (Project)

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

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

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

**SECTION 00837**  
**CONTRACTOR'S RELEASE**

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_  
of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_  
(Contractor)

do hereby acknowledge that \_\_\_\_\_ has this day had, and received of  
and from \_\_\_\_\_ the sum of One Dollar and other valuable considerations in  
(Contractor)  
(Owner)

full and complete satisfaction and payment of all sums of money owed, payable and belonging to  
\_\_\_\_\_ by any means whatsoever, for on account of a Contract

(Contractor)  
Agreement between \_\_\_\_\_ and \_\_\_\_\_  
(Owner) (Contractor)  
dated \_\_\_\_\_ for \_\_\_\_\_  
(Agreement Date) (Project)

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

(for myself, my heirs, executors and administrators) (for itself, its successors and assigns)  
do/does, by these presents remise, release, quit-claim and forever discharge \_\_\_\_\_  
(Owner)  
\_\_\_\_\_, of and from all claims and demands, arising from or in connection  
with the said contract dated \_\_\_\_\_, and of and from all, and all manner of action and  
(Agreement Date)

actions, cause and causes of action and actions, suits, debts, dues, duties, sum and sums of money,  
accounts, reckonings, bonds, bills, specialties, covenants, contracts, agreements, promises,  
variances, damages, judgments, extents, executions, claims and demand, whatsoever in law or  
equity, or otherwise, against \_\_\_\_\_ its successors and assigns, which (I,  
(owner)  
my heirs, executors, or administrators) (it, its successors and assigns) ever had, now have or which  
(I, my heirs, executors, or administrators) (it, its successors and assigns) hereafter can, shall or may  
have, for, upon or by reason of any matter, cause, or thing whatsoever; from the beginning of  
recorded time to the date of these presents.

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

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

Signed, Sealed and Delivered in the presence of:

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

\_\_\_\_\_

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

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

Attested:

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

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

(Corp. Seal)

## SECTION 00838

### CERTIFICATE OF SUBSTANTIAL COMPLETION

|             |        |                   |
|-------------|--------|-------------------|
| Project:    | Owner: | Contract No.:     |
| Contract:   |        | Date of Contract: |
| Contractor: |        |                   |

**This [tentative] [definitive] Certificate of Substantial Completion applies to:**

All Work under the Contract Documents:  The following specified portions:

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Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner and Contractor, and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared and is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

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

**The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as provided in the Contract Documents except as amended as follows:**

Amended Responsibilities  Not Amended

Owner's Amended Responsibilities:

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Contractor's Amended Responsibilities:

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

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

Accepted by Contractor Date

Accepted by Owner Date

**SECTION 00840**

**WORK CHANGE DIRECTIVE**

**No. \_\_\_\_\_**

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

|             |                   |
|-------------|-------------------|
| Owner:      | Contract No.:     |
| Contract:   | Date of Contract: |
| Contractor: |                   |

**You are directed to proceed promptly with the following change(s):**

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

Purpose of Work Change Directive: \_\_\_\_\_

Attachments: (List documents supporting change):  
\_\_\_\_\_  
\_\_\_\_\_

**If the Owner or Contractor believe that the above change has affected the Contract Price any Claim for a Change Order based thereon will involve one or more of the following methods as defined in the Contract Documents.**

Method of Determining change in Contract Price:

- Unit Prices
- Lump Sum
- Cost of the Work

Estimated [Increase] [Decrease] in Contract Price:

\$ \_\_\_\_\_

Estimated [Increase] [Decrease] in Contract Times:

Substantial Completion: \_\_\_\_\_ Days

Final Completion: \_\_\_\_\_ Days

If the change involves an increase, the estimated amount is not to be exceeded without further authorization.

ACCEPTED:

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

ACCEPTED:

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

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

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

**SECTION 00842**

**CHANGE ORDER**

**No. \_\_\_\_\_**

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

|             |                   |
|-------------|-------------------|
| Owner:      | Contract No.:     |
| Contract:   | Date of Contract: |
| Contractor: |                   |

**The Contract Documents are modified as follows upon execution of this Change Order:**

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

Attachments: (List documents supporting change):  
\_\_\_\_\_  
\_\_\_\_\_

**CHANGE IN CONTRACT PRICE:**

Original Contract Price: \_\_\_\_\_  
\$ \_\_\_\_\_

[Increase] [Decrease] from previously approved Change Orders No. \_\_\_\_\_ to No. \_\_\_\_\_:

\$ \_\_\_\_\_

Contract Price prior to this Change Order:

\$ \_\_\_\_\_

[Increase] [Decrease] of this Change Order:

\$ \_\_\_\_\_

Contract Price incorporating this Change Order:

\$ \_\_\_\_\_

**CHANGE IN CONTRACT TIMES:**

Original Contract Times:  Working days  Calendar days  
Substantial completion (days or date): \_\_\_\_\_  
Ready for final payment (days or date): \_\_\_\_\_

[Increase] [Decrease] from previously approved Change Orders No. \_\_\_\_\_ to No. \_\_\_\_\_:

Substantial completion (days): \_\_\_\_\_  
Ready for final payment (days): \_\_\_\_\_

Contract Times prior to this Change Order:

Substantial completion (days or date): \_\_\_\_\_  
Ready for final payment (days or date): \_\_\_\_\_

[Increase] [Decrease] of this Change Order:

Substantial completion (days or date): \_\_\_\_\_  
Ready for final payment (days or date): \_\_\_\_\_

Contract Times with all approved Change Orders:

Substantial completion (days or date): \_\_\_\_\_  
Ready for final payment (days or date): \_\_\_\_\_

**ACCEPTED:**

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

**ACCEPTED:**

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

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

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

## SECTION 01010

### SUMMARY OF WORK

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

###### A. Work Included:

1. Installation of approximately 10,200 feet of 12-inch ductile iron water main along Old Bath Road and approximately 640 feet of 8-inch water main on Bay Bridge Road. The project has asphalt restoration and the work will include installation of hydrants, a 6-inch service line at the intersection of Bay Bridge Road and Beverly Drive and other appurtenances as shown on the Drawings and specified herein.

###### B. Removals, Relocations and Rearrangements

1. Examine the existing site for the work of all trades which will influence the cost of the work under the bid. This work shall include removals, relocations and rearrangements which may interfere with, disturb or complicate the performance of the work under the bid involving systems, equipment and related service lines, which shall continue to be utilized as part of the finished project. The Contractor is responsible for all coordination in this regard.
2. Provide in the bid a sufficient amount to include all removals, relocations, rearrangements and reconnections herein specified, necessary or required to provide approved operation and coordination of the combined new and existing systems and equipment.

#### PART 2 - PRODUCTS

Not Applicable.

#### PART 3 - EXECUTION

##### 3.1 MAINTAIN EXISTING WORKS

###### A. Existing Operations:

1. The existing distribution main provides fire protection and potable water service to system customers.
2. Four inch or larger temporary services are required to serve fire services.

###### B. Maintain Distribution Service:

1. Service must remain available for all customers in the service area. The Contractor is to coordinate construction efforts with the Owner and the Contractor is to provide all temporary services and limit interruption due to construction activities.
2. A temporary service must be provided if a service interruption is scheduled for more than 8 hours.
3. The Owner must have access to the distribution system at all times unless a specific exception is granted by the Owner.

###### C. Minimize Interference

1. The Contractor shall at all times conduct his operations so as to interfere as little as possible with existing works. The Contractor shall develop a program, in cooperation with the Owner, and interested officials, which shall

provide for the construction and putting into service of the new works in the most orderly manner possible. This program shall be adhered to except as deviations therefrom are expressly permitted.

2. The Contractor shall limit his personnel to the limits of work.

### 3.2 CONSTRUCTION SEQUENCE

- A. To maintain service and to minimize disruption, the construction must be divided into phases or sequenced appropriately. The construction sequence phases and dates must allow the Owner to maintain service as specified in paragraph 3.1.
- B. The Contractor shall disinfect and pressure test each section of main ending at a hydrant and gate valve installation. Chlorination taps will need to be installed downstream of each 12-inch gate valve installation.
- C. The Contractor shall submit to the Owner for review and acceptance a complete schedule of his proposed sequence of construction operations prior to commencing any work. This schedule shall include the Contractor's plans for doing the work.
- D. The Contractor must submit to the Owner a written request to deviate from the above sequence, provided he can demonstrate to the Owner that the continuity and degree of treatment will not be adversely affected.
- E. It shall be recognized that certain interruptions of, and disruptions to, the distribution system will be required to complete the work of this Contract. Scheduled interruptions shall be kept to a minimum frequency and duration. Such interruptions shall be coordinated by the Contractor and the Owner using the Contractor's proposed work schedule.
- F. The Contractor shall notify the Owner a minimum of seven (7) days in advance of any work which may affect or disrupt services. Once the interruption occurs the Contractor must maintain a workforce on-site to complete the work in the agreed upon time.
- G. The Contractor shall allow in the Bid reasonable time to accommodate operations of the existing distribution system, including the need for the Owner to respond to emergencies. The Contractor shall not be eligible for additional compensation due to interruptions of the Contractor's schedule, in order for the Owner to respond to routine conditions.

### 3.3 TRENCHING CONSIDERATIONS

- A. The Contractor will be permitted to plate open trenches during non-working hours on a temporary basis (less than 24 hours) for the purposes of accelerating the installation process, provided that all applicable MDOT and Town requirements are met. This includes maintaining traffic in both directions during non-working hours.

### 3.4 HOURS OF WORK

- A. The Contractor must meet all local ordinances regarding working hours, which presently are 7 AM to 7 PM.
- B. The contractor must pay for any inspection required on Saturday and Sunday at \$90 per hour.

**END OF SECTION**

## SECTION 01150

### MEASUREMENT AND PAYMENT

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

- A. For lump sum items, payment shall be made to the Contractor in accordance with an accepted Progress Schedule and Schedule of Values on the basis of actual work completed.
- B. For unit-price items, payment shall be based on the actual amount of work accepted and for the actual amount of materials in place, as shown by the final measurements.
  - 1. All units of measurement shall be standard United States convention as applied to the specific items of work by tradition and as interpreted by the Owner.
  - 2. At the end of each day's work, the Contractor's Superintendent or other authorized representative of the Contractor shall meet with the Owner's Representative and determine the quantities of unit price work accomplished and/or completed during the work day.
  - 3. The Owner's Representative will then prepare two "Daily Progress Reports" which shall be signed by both the Owner's Representative and Contractor's Representative.
  - 4. These completed forms will provide the basis of the monthly quantity estimate upon which payment will be made. Items not appearing on both the Daily Progress Reports will not be included for payment. Items appearing on forms not properly signed by the Contractor will not be included for payment.

##### 1.2 SCOPE OF PAYMENT

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

**1.3 PAYMENT FOR INCREASED OR DECREASED QUANTITIES**

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

**1.4 PARTIAL PAYMENTS**

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

**1.6 PAYMENT FOR MATERIAL DELIVERED**

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

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

**1.7 FINAL PAYMENT**

A. The Owner will make, as soon as practicable after the entire completion of the project, a final quantity invoice of the amount of the Work performed and the value of such Work. Owner shall make final payments of the sum found due less retainages subject to the provisions of the General and Supplementary Conditions.

**1.8 INCIDENTAL WORK**

A. Incidental work items for which separate payment is not made include (but are not limited to) the following items:

1. Clearing, grubbing and stripping
2. Dust control
3. Dewatering
4. Clean-up
5. Erosion control
6. Loam and seeding
7. Restoration of property, and replacement of fences, curbs, structures and other minor items disturbed by the construction activities.
8. Coordination with the Owner, Utilities and others, including related inspection cost
9. Utility crossings and relocations, unless payment is otherwise made
10. Traffic Regulation and control, including flaggers
11. Steel and/or wood sheeting as required, including that left in place

12. Project record documents
13. Materials testing
14. Construction schedules, bonds, insurance, shop drawings, warranties, guarantees, certifications, and other submittals required by the Contract Documents
15. Repair and replacement of utilities damaged by construction activities and corresponding proper disposal of removed materials
16. Temporary utilities for construction and to maintain existing service during construction
17. Quality assurance testing
18. Temporary construction and other facilities not to be permanently incorporated into the Work necessary for construction sequencing and maintenance of operations
19. Weather protection
20. Permits for activities dealing with and related to the construction activities.
21. Visits to the Project site or elsewhere by personnel or agents of the Contractor, including manufacturer's representatives, as may be required.
22. On-site and other facilities acceptable to Owner for the storage of materials, supplies and equipment to be incorporated into the Work
23. Mobilization/demobilization.
24. Gravel or crushed stone for restoration.
25. Pipe Markings
26. Pavement Markings
27. Removal of Existing Pavement
28. Earthwork
29. Preconstruction Photos and Videos
30. Construction Administration and Insurance.
31. Bedding Material.
32. Excavation, dewatering, backfilling and compaction.
33. Testing, cleaning and disinfecting water mains.
34. Connections to existing services and mains
35. Thrust blocks.
36. Test pits.
37. Clean up, hydroseeding and restoration of right-of-way to preconstruction state.
38. Removal and disposal of existing water mains to be replaced in the same trench.
39. Road Opening Permits

#### 1.9 DESCRIPTION OF PAY ITEMS

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

Item No. 1.01 - Install 12-inch and 8-inch Ductile Iron Water Mains, All Depths

- A. Method of Measurement: The quantity of water main to be paid for under Item 1.01 shall be the actual length in feet as measured along the center line of the pipe as laid including all fittings and valves.
- B. Basis of Payment: Water main installation shall be paid for at the unit price per linear foot stated in the Bid Schedule. Said unit price shall be full compensation for the installation of the pipelines; for dewatering; for removal and disposal of excavated pipelines; for excavating, laying, setting, and jointing all pipes, fittings, glands, restraints and valves; for furnishing and placing earthwork including all bedding and haunching; for backfilling; for furnishing and placing all gravel required in areas of roadway and shoulder; for compaction; for air release valves and valve boxes; traffic control for disconnecting and reconnecting services; for temporary services and transmission mains; for thrust blocks; for restraining joints; insulation; for furnishing and placing all temporary and/or permanent sheeting and bracing; for all labor, tools and construction equipment; for all connections to the existing water mains unless otherwise paid for; and for all other work and expenses incidental thereto.

Item No. 2.01 - Install 6-inch Ductile Iron Service

- A. Method of Measurement: The quantity to be paid for under Item No. 2.01 shall be the actual number of installed 6-inch service connections.
- B. Basis of Payment: 6-inch service installation shall be paid for at the unit price per each stated in the Bid Schedule. Said unit price shall be full compensation for installation of all tees, pipe, gate valves, restraining joints, valve boxes, labor, equipment, tools, and other materials required for the installation of services; for trench dewatering; for excavating, laying, setting, and jointing all pipes and fittings; for furnishing and placing earthwork including all bedding and haunching; for backfilling; for cleaning, testing, and disinfecting; for backfilling; for replacing or rebuilding shrubs, fences, lawns, trees, or other materials, except other such items specifically included in the Bid Schedule; and for all other work and expenses incidental thereto.

Item No. 3.01 - Install Hydrant Assemblies

- A. Method of Measurement: The quantity of hydrants to be paid for under Item 3 shall be the actual number installed complete in place.
- B. Basis of Payment: Hydrants shall be paid for at the unit price each stated in the Bid Schedule. Said unit price shall be full compensation for installation of all hydrants, pipe, gate valves, restraining joints, valve boxes, labor, equipment, tools, and other materials required for the installation of hydrant assemblies; for trench dewatering; for excavating, laying, setting, and jointing all pipes and fittings; for furnishing and placing earthwork including all bedding and haunching; for backfilling; for cleaning, testing, and disinfecting; for backfilling; for replacing or rebuilding shrubs, fences, lawns, trees, or other materials, except other such items specifically included in the Bid Schedule; and for all other work and expenses incidental thereto.

Item No. 4.01 - Furnish and Install 19.0 mm Bituminous Concrete Pavement for Trench Patches

- A. Method of Measurement: Quantity to be paid for under Item 4.01 shall be the actual tons of pavement placed calculated with the following formula:  $[0.055 \times \text{length (ft)} \times \text{width (ft)} \times$

depth (in)]/9. The unit measurements to calculate area will be the measured width, but no greater than six feet and measured length as measured in the field.

B. Basis of Payment: The pavement shall be paid for at the unit price per ton stated in the Bid Schedule. Said unit price shall be full compensation for furnishing all materials, labor, equipment, and tools necessary for the placement of pavement and support gravel; for all maintenance and repair of pavement; for pavement markings; and for all other work and expenses incidental thereto. Removal and replacement of paving for the convenience of the Contractor will not be considered for payment.

Item No. 4.02 - Furnish and Install 12.5 mm Bituminous Concrete Pavement for Trench Patches

A. Method of Measurement: Quantity to be paid for under Item 4.01 shall be the actual tons of pavement placed calculated with the following formula:  $[0.055 \times \text{length (ft)} \times \text{width (ft)} \times \text{depth (in)}]/9$ . The unit measurements to calculate area will be the measured width, but no greater than six feet and measured length as measured in the field.

B. Basis of Payment: The pavement shall be paid for at the unit price per ton stated in the Bid Schedule. Said unit price shall be full compensation for furnishing all materials, labor, equipment, and tools necessary for the placement of pavement and support gravel; for all maintenance and repair of pavement; for pavement markings; and for all other work and expenses incidental thereto. Removal and replacement of paving for the convenience of the Contractor will not be considered for payment.

Item No. 5.01 - Removal and disposal of ledge and replacement with suitable material as specified

A. Method of Measurement: Quantity to be paid for under Item 5.01 shall be the actual number of cubic yards of ledge removed and replaced with suitable material as instructed by the Owner. Material to meet requirements detailed in trench detail.

B. Basis of Payment: Removal and disposal of ledge shall be paid for at the unit price per cubic yard stated in the Bid Schedule. Said unit price shall be full compensation for furnishing all labor, equipment, and tools necessary for the removal and disposal of ledge; furnishing and installing replacement material and for all other work and expenses incidental thereto.

Item No. 6.01 - Removal and disposal of unsuitable subgrade soils and replacement with suitable material as specified

A. Method of Measurement: Quantity to be paid for under Item 6.01 shall be the actual number of cubic yards of unsuitable material so excavated and replaced with suitable material as instructed by the Owner. Material to meet requirements detailed in trench detail.

B. Basis of Payment: Unsuitable earth excavation below grade shall be paid for at the unit price per cubic yard stated in the Bid Schedule. Said unit price shall be full compensation for furnishing all labor, equipment, and tools necessary for the excavation of earth below grade including the disposal of surplus materials; furnishing and installing replacement material and for all other work and expenses incidental thereto.

**END OF SECTION**

## SECTION 01200

### PROJECT MEETINGS

#### PART 1 - GENERAL

##### 1.1 PRECONSTRUCTION MEETING

- A. Preconstruction meeting will be scheduled before the Contractor starts work at the site. Provide attendance by authorized representatives of the Contractor and all subcontractors. The meeting will be conducted in two phases.
- B. Phase I: Owner, Contractor and Town
  - 1. Identification of key project personnel for all entities.
    - a) Owner
    - b) Contractor
    - c) Fire Department
    - d) Police Department
    - e) Public Works
    - f) School Department
  - 2. Emergency Contact Information
  - 3. Construction schedule, including sequence of critical work
  - 4. Traffic Plan
  - 5. Safety Plan
- C. Phase II: Owner and Contractor
  - 1. Contract Documents, including distribution of additional plan copies.
  - 2. Temporary service plan (including fire services)
  - 3. Easements, permits.

##### 1.2 PROJECT MEETINGS

- A. Attendance: To the maximum extent practicable, assign the same person or persons to represent the Contractor at project meetings throughout progress of the Work. The Superintendent shall attend. Subcontractors, materials suppliers, and others may be invited to attend those project meetings in which their aspects of the Work are involved.
- B. Minimum agenda:
  - 1. Review, revise as necessary, and approved minutes of previous meeting.
  - 2. Review progress of the Work since last meeting, including status of submittals for approval.
  - 3. Review schedule of work to be accomplished prior to next meeting.
  - 4. Discuss monthly partial payment request.
  - 5. Review status of change order requests and Work Directive Changes.
  - 6. Identify problems which impede planned progress.
  - 7. Develop corrective measures and procedures to regain planned schedule.
  - 8. Complete other current business.

**END OF SECTION**

## SECTION 01340

### SUBMITTALS

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

###### A. Work Included:

1. Submit to the Owner, Shop Drawings, Manufacturers' Certificates, Project Data, and Samples required by the Specification Sections.

##### 1.2 SHOP DRAWINGS

- A. Shop Drawings are generally defined as all fabrication and erection drawings, diagrams, brochures, schedules, bills of material, manufacturers data, spare parts lists, and other data prepared by the Contractor, his subcontractors, suppliers, or manufacturers which illustrate the manufacturer, fabrication, construction, and installation of the work, or a portion thereof.

- B. Submit to the Owner for approval the following shop drawings:

1. Construction schedule, including sequence of critical work.
2. Permits.
3. Safety Plan
4. Emergency Contact Information
5. Pre-Construction Photos
6. Traffic Regulation Plan
7. Earthwork
8. Pavement
9. Temporary Water Main Plan

- C. The Contractor shall submit to the Owner a minimum of four (4) copies of Shop Drawings and approved data. The Owner will retain two (2) copies and return two (2) copies to the Contractor for distribution to subcontractors, suppliers and manufacturers. If the Contractor requires more than two (2) then the number of copies submitted shall be adjusted accordingly.

- D. The Contractor shall be responsible for the prompt and timely submittal of all shop and working drawings so that there shall be no delay to the work due to the absence of such drawings.

- E. No material or equipment shall be purchased or fabricated especially for the Contract until the required shop and working drawings have been submitted as hereinabove provided and reviewed for conformance to the Contract requirements. All such materials and equipment and the work involved in their installation or incorporation into the Work shall then be as shown in and represented by said drawings.

- F. Until the necessary review has been made, the Contractor shall not proceed with any portion of the work which is dependent upon the design or details of work, materials, equipment or other features for which review is required.

- G. If a shop drawing shows any deviation from the Contract requirements, the Contractor shall make specific mention of the deviations in his letter of transmittal.

1.3 SUBMISSION REQUIREMENTS

A. Accompany submittals with transmittal letter, containing:

1. Date.
2. Project title and number.
3. Contractor's name and address.
4. The number of each Shop Drawing, Project Data and Sample submitted.
5. Notification of deviations from Contract Documents.
6. Other pertinent data.

**END OF SECTION**

**SECTION 01380**  
**PRE-CONSTRUCTION PHOTOGRAPHS**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

A. Work Included:

1. Contractor shall utilize digital photographs and video to obtain a visual record of the project area; copies of same shall be given to the Owner.

**1.2 QUALITY**

- A. Quality shall be such that the condition of existing pavement, curbing, driveway entrances, sidewalks, etc. can be readily determined.

**1.3 SUBMITTAL OF PRINTS**

- A. Submit electronic files to the Owner prior to any construction work.
- B. The quality of the photos and video are subject to approval by the Owner prior to the start of construction.

**END OF SECTION**

## SECTION 01510

### TEMPORARY UTILITIES

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

- A. Furnish all temporary utilities required to perform work including the placement, activation, operation, decommissioning, removal of utilities. This includes all site restoration, easements and incidentals related to temporary facilities.
- B. This includes all applications and arrangements for utilities required to complete the work in this project.

##### 1.2 SCHEDULING WORK

- A. The temporary utility plan should be consistent and integrated with the work schedule.

##### 1.3 SUBMITALS

- A. The Contractor shall submit and get approved a temporary utility plan. The plan should be integrated with the project schedule to ensure that no customer is scheduled to go without water for a period longer than 6 hours.
- B. The plan should include all temporary main, customer and fire service sizes.
  - 1. Review, revise as necessary, and approved minutes of previous meeting.
  - 2. Review progress of the Work since last meeting, including status of submittals for approval.
  - 3. Review schedule of work to be accomplished prior to next meeting.
  - 4. Discuss monthly partial payment request.
  - 5. Review status of change order requests and Work Directive Changes.
  - 6. Identify problems which impede planned progress.
  - 7. Develop corrective measures and procedures to regain planned schedule.
  - 8. Complete other current business.

#### PART 2 – PRODUCTS

##### 2.1 TEMPORARY WATER

- A. All materials used for temporary water shall be suitable for portable water and meet all relevant AWWA and ANSI specifications.
- B. All temporary services should have an isolation valve and backflow device.

##### 2.2 SANITARY ACCOMMODATIONS

- A. Provide and maintain sanitary accommodations for the use of Contractor and subcontractor employees.
- B. Sanitary accommodations shall meet the requirement of all local, State and Federal health codes, laws and regulations.

## **PART 3 – EXECUTION**

### **3.1 TEMPORARY WATER**

- A. All temporary systems must be disinfected and pass bacteriological testing before being placed into service.
- B. All temporary mains shall have isolation valves to allow the system to be readily shut down in case of a break.
- C. Temporary mains and services are not required to be pressure tested. The Contractor is responsible for eliminating all visible leaks in the system.
- D. The temporary water system shall be constructed in such a manner that it does not prevent the use of sidewalks, driveways and roads and does not constitute a safety hazard.

**END OF SECTION**

## SECTION 01570

### TRAFFIC REGULATION

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

- A. Work Included:
  - 1. Provide all materials and perform all work necessary to completely regulate traffic in the area of Work.
  - 2. Perform all work in such a manner as to provide safe passage at all times for the public and with a minimum of obstruction to traffic.
  - 3. Do not close roads or streets to passage of the public without the permission of the proper authorities.
- B. The local police department and/or the Maine Department of Transportation will decide if safe passage is being maintained and shall have the authority to require the Contractor to take any additional steps necessary to maintain safe passage. If the Town or MDOT furnishes an inspector on the job as a result of poor traffic control by the Contractor, the Contractor shall be responsible for all costs assessed by the regulating authority(s).

##### 1.2 SCHEDULING WORK

- A. Revise the work plan as needed to avoid traffic hazards.
- B. Do not start work in any new location without the permission of the Owner and Town.
- C. Notify all police and fire departments of any and all scheduled changes to the traffic plan.
- D. Ensure all traffic signals are functional at the conclusion of a work period.

##### 1.3 SUBMITALS

- A. The contractor shall submit and get approved to the Town Engineer and Police Department a traffic plan. This plan shall also be submitted to the District.

#### PART 2 - PRODUCTS

##### 2.1 WARNING SIGNS AND BARRICADES

- A. Provide adequate warning signs, barricades, signal lights, watchmen and take other necessary precautions for the safety of the public.
- B. Provide and illuminate suitable warning signs to show where construction, barricades or detours exist.
- C. Provide barricades of substantial construction and painted with a finish that increases visibility at night.
- D. Keep signal lights illuminated at all barricades and obstructions from sunset to sunrise.
- E. Maintain all necessary signs, barricades, lights, watchmen and other safety precautions during authorized suspension of the Work, weekends, holidays or other times when the Work is not in progress.

- F. Traffic control signs for construction work shall be located and of the size and type as outlined in *Manual on Uniform Traffic Control Devices for Streets and Highways* as published by U. S. Department of Transportation.

**END OF SECTION**

## SECTION 01720

### PROJECT RECORD DOCUMENTS

#### PART I - GENERAL

##### 1.1 DESCRIPTION

###### A. Work Included:

1. Keep accurate record documents for all additions, substitutions of material, variations in work, and any other additions or revisions to the Contract.

##### 1.2 MAINTENANCE OF DOCUMENTS

###### A. Maintain at job site, one copy of:

1. Contract Drawings
2. Specifications
3. Addenda
4. Reviewed Shop Drawings
5. Change Orders
6. Any other modifications to the Contract
7. Field Test Reports

###### B. Store documents in files and racks specifically identified for this use, that are apart from documents used for construction.

###### C. File documents in a logical manner indexed for easy reference.

###### D. Maintain documents in clean, dry, legible condition.

###### E. Do not use record documents for construction purposes.

###### F. Make documents available at all times for inspection and by the end of the project, transmit these documents to the Owner.

##### 1.3 RECORDING

###### A. Label each document "PROJECT RECORD" in large high printed letters.

###### B. Keep record documents current and do not permanently conceal any work until required information has been recorded.

###### C. General Field Recording Issues:

1. All ties should be taken from existing, permanent features such as utility poles, corners of houses and hydrants. Porches, sheds or other house additions should be avoided for they could be torn down. A minimum of two ties should be taken.
2. Stations should be recorded to the nearest foot.

###### D. Project Record Drawings - Legibly mark Contract Drawings to record existing utilities and actual construction of all work, including but not limited to the following (where applicable):

###### 1. Existing Utilities

Water mains and services, water main gate valves, sewer mains and services, storm drains, culverts, steam lines, gas lines, tanks and other existing utilities encountered during construction must be accurately located and shown on the

Drawings. In congested areas supplemental drawings or enlargements may be required.

- a. Show any existing utilities encountered in plan and profile and properly labeled showing size, material and type of utility. Ties should be shown on plan. Utility should be drawn to scale in section (horizontally and vertically) and an elevation should be called out to the nearest hundredth of a foot.
- b. When existing utility lines are broken and repaired, ties should be taken to these locations.
- c. If existing water lines are replaced or relocated, document the area involved and pipe materials, size, etc. in a note, and with ties.
2. Water Mains
  - a. Show ties to the location of all valves, bends (horizontal and vertical), tees and other fittings. The use of thrust blocks should be recorded.
  - b. Revise elevations indicated on the Drawings to reflect actual construction.
3. House Services
  - a. Draw all house services (even to empty lots) on plan, and show ties.
  - b. Show ties or distances to wyes from manhole.
4. Ledge
  - a. Ledge profiles should be shown. Note whether the plotted ledge profile reflects undisturbed or expanded conditions.

END OF SECTION

## SECTION 02200

### EARTHWORK

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

A. The work described by the Section consists of all earthwork encountered and necessary for construction of the project and includes, but is not limited to, the following:

1. Trenching (earth and ledge)
2. Backfilling
3. Providing imported fill as necessary
4. Removing suitable and unsuitable material from site

B. Related Work Specified Elsewhere (when applicable):

1. Section 02600 - Pipe, Fittings, and Appurtenances Installation
2. Appendix A – AWWA C600 – Installation of Ductile Iron Water Mains and their Appurtenances

##### 1.2 QUALITY ASSURANCE

A. Requirements of Regulatory Agencies

1. All work shall be performed and completed in accordance with all local, State, and Federal Regulations.
2. The Contractor shall secure all necessary permits from, and shall furnish proof of acceptance by, the municipal and State departments having jurisdiction and shall pay for all such permits unless specifically stated otherwise elsewhere in the Contract.

##### 1.3 LINE AND GRADE

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

##### 1.4 SUBMITTALS

A. Upon request, submit two copies of the following reports to District:

1. Source location and gradation analysis for all borrow materials to be used at least 10 days prior to use on the site;
2. Moisture - density curve for each type of soil (onsite or borrow material) to be used for bedding and backfill.

B. Where a gradation is specified the testing shall be in accordance with ASTM D422, latest revision.

C. Wherever a percentage of compaction is indicated or specified, it shall be the in-place density divided by the maximum density and multiplied by 100. The maximum density shall be the density at optimum moisture content as determined by ASTM Standard Methods of Test for Moisture - Density Relations of Soil

Using 10 lb. Hammer and 18 in. Drop, Designation D1557-78, or latest revision. The in-place density shall be determined in accordance with ASTM Standard Method of Test for Density of Soil in Place by the Sand Cone Method, Designation D1556-64, or latest revision, or Nuclear Method Designation D2922.

**D. Jobsite Testing and Inspection**

1. District may engage soil testing and inspection services for quality control testing during earthwork operations. Passing tests shall be at District's expense. Failing tests shall be paid for by the Contractor.
2. The maximum density and optimum moisture content of fill and backfill materials shall be established prior to placement and shall be reestablished if the composition of the material changes. If the fill or backfill material has been placed and compacted samples shall be taken from the locations where the in-place density tests are made.
3. Field density tests shall be taken at locations and at a frequency established by the District's field representative.
4. Contractor shall provide at least two days notice to District of when material will be placed.
5. Contractor shall modify placement and compaction techniques as required to achieve specified compaction limits.

## **1.5 JOB CONDITIONS**

**A. Site Information**

1. Data provided expressly by District relating to subsurface conditions are not intended as representations or warranties of accuracy or continuity between soil borings or test pit excavations. It is expressly understood that District will not be responsible for interpretations or conclusions drawn therefrom by Contractor. Data are made available solely for the convenience of the Contractor.
2. Additional test borings and other exploratory options may be made by Contractor at his option and at no cost to District.

**B. Protection of Persons and Property**

1. Barricade open excavations occurring as part of this work and post with warning lights. Operate warning lights as required by authorities having jurisdiction.
2. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards created by earthwork operations.
3. Repair any and all damage that results from construction activity.

**C. Locations**

1. The Contractor shall be responsible for compliance with Maine PUC Chapter 895 – Underground Facility Damage Prevention Requirements (Maine Dig-Safe Rules) and with local rules and regulations of all utilities.
2. Data provided by the District for locations of utilities shown on the Drawings are approximate as determined from physical evidence on or above the surface

of the ground and from information supplied by utilities and others. The District in no way warranties that these locations are correct.

3. Utilities and structures shall be protected from damage, and relocated or removed only as indicated or specified. Inactive and abandoned utilities encountered in excavation and grading operations shall be removed, plugged, or capped. Report in writing to the owner of such utilities or structures their location.
4. If, in the progress of excavation, any utility or structure should be damaged, Contractor shall restore it to its original condition at no cost to its owner or the District.

## PART 2 – PRODUCTS

### 2.1 SOIL MATERIAL

- A. Sand: Shall be a well graded durable material free of organic matter and conform to the following gradation requirements:

| <u>Sieve Designation</u> | <u>Percent by Weight Passing Square Mesh Sieve</u> |
|--------------------------|--|
| 3/8 inch                 | 100  |
| No. 4                    | 95 – 100   |
| No. 16                   | 50 – 85  |
| No. 50                   | 10 – 30  |
| No. 100                  | 2 – 10   |

- B. Screened Gravel / Crushed Stone: Shall be well graded screened gravel or crushed stone meeting the following gradation requirements:

| <u>Sieve Designation</u> | <u>Percent by Weight Passing Square Mesh Sieve</u> |
|--------------------------|--|
| 1 inch                   | 100  |
| 3/4 inch                 | 90 – 100   |
| 3/8 inch                 | 20 – 55  |
| No. 4                    | 0 - 10   |
| No. 8                    | 0 – 5  |

C. Grade D Gravel: The material shall consist of clean, hard, durable particles, free from lumps of clay, organics, and all deleterious substances and shall comply with the following gradation requirements:

| <u>Sieve Designation</u> | <u>Percent by Weight Passing Square Mesh Sieve</u> |
|--------------------------|--|
| 6 inch                   | 100  |
| 1/4 inch                 | 25 – 75  |
| No. 40                   | 0 - 30   |
| No. 200                  | 0 – 7  |

D. Grade A Gravel: The material shall be a crushed gravel consisting of clean, hard, durable particles, free from lumps of clay, organics, and all deleterious substances and shall comply with the following gradation requirements:

| <u>Sieve Designation</u> | <u>Percent by Weight Passing Square Mesh Sieve</u> |
|--------------------------|--|
| 2 inch                   | 100  |
| 1/2 inch                 | 45 – 70  |
| 1/4 inch                 | 30 – 55  |
| No. 40                   | 0 - 20   |
| No. 200                  | 0 – 5  |

E. Common Borrow: Shall consist of suitable material required for the work, and shall be free of frozen material, rubbish, peat, organic and other deleterious substances.

F. Suitable Material Excavated from Trench:

1. Native soil free of frozen material, foreign materials, organics, peat, excessive moisture, or other deleterious substances.
2. Free from stones greater than  $1\frac{1}{2}$  inches in greatest dimension when used as bedding or initial backfill.
3. Free from stones greater than 6 inches in greatest dimension when used as final backfill.

## PART 3 – EXECUTION

### 3.1 INSPECTION

A. Examine the conditions under which trenching and backfilling are to be performed and notify the District in writing of conditions detrimental to the proper execution of the work. Do not proceed with the work until unsatisfactory conditions have been corrected.

### 3.2 EXCAVATION AND BACKFILL

- A. Unauthorized Excavation: Shall consist of removal of materials beyond indicated subgrade elevations or dimensions. Remedial work required by the District shall be done at Contractor's expense. Remedial work required shall include backfill and compaction of unauthorized excavations with screened gravel or crushed stone.
- B. Additional Excavation: When excavation has reached required subgrade and unsuitable bearing materials are encountered, carry excavation to limits specified by District and replace the excavated material with screened gravel or crushed stone.
- C. Trenching: Shall consist of excavating to the widths and depths shown on the drawings to permit proper installation of pipelines.
- D. Backfilling: Shall consist of placement of bedding and initial backfill for pipelines, and placement of materials for trench fill to the widths and depths shown on the drawings. No stone greater than 1½ inch diameter or larger shall be allowed within 12 inches of the pipe. No stone greater than 6 inch diameter shall be placed in the trench backfill.
- E. Compaction: Compact bedding material and initial backfill to at least 92% maximum dry density. Where backfilling with suitable material excavated from trench, compact to match native field density. Moisten material where required, or dry or remove and replace material that is too wet, to permit compaction to the specified density. Backfill and compact voids left by the removal of shoring and bracing.

### 3.3 STABILITY OF EXCAVATIONS

- A. Slope sides of excavations to comply with all codes and ordinances. Provide shoring and bracing where sloping is not possible.

**END OF SECTION**

**SECTION 02600**  
**PIPE AND FITTINGS FOR BURIED APPLICATIONS**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

- A. Work Included: Install the pipe materials, fittings, and appurtenances, including disinfection and testing, of the types, sizes, and in the locations shown on the Drawings and as specified herein.
- B. The extent of the work is generally shown on the Drawings and shall be extended to accommodate changes that become necessary as a result of encountering unforeseen or changed conditions in the field.
- C. Related Work Specified Elsewhere (when applicable):
  - 1. Appendix A – AWWA C600 – Installation of Ductile Iron Water Mains and their Appurtenances
  - 2. Appendix B – AWWA C651 – Disinfecting Water Mains
  - 3. Appendix C – Water Main Material Specifications

**1.2 GENERAL REQUIREMENTS**

- A. All pipeline materials for the project shall be furnished by the Brunswick & Topsham Water District including pipe, tapping sleeves, valves, hydrants, couplings, fittings, joint restrainers, valve boxes, corporation stops, curb stops, and service tubing, and all accessories including pipe insulation gaskets, glands, bolts, nuts and lubricant as required to make all piping systems complete.
- B. All pipeline materials for the project shall be installed by the Contractor including all assembly, cutting to length, cleaning and prep work as detailed in Appendix A.
- C. Materials incidental to the completed project including but not limited to materials for temporary facilities, soil materials, concrete and trench insulation shall be furnished and installed by Contractor.

**PART 2 – PRODUCTS**

**2.1 GENERAL**

- A. Pipe: Sizes 4-inch and larger shall be ductile iron pipe, Class 52, double cement lined, push-on joints.
- B. Valves, Fittings, and Hydrants: Mechanical joint with mechanical joint restrainers.
- C. Service Taps:
  - 1. 1 inch: bronze corporation stop with tapered thread and compression fitting outlet, type K copper tubing, and bronze curb stop with connections for copper compression fittings.
  - 2. 2-inch: bronze corporation stop with saddle, type K copper tubing or HDPE CTS, and bronze curb stop with connections for compression fittings.

## PART 3 – EXECUTION

3.1 INSTALLATION: Install pipe, fittings, valves, hydrants, and appurtenances in accordance with AWWA C600, which is appended and hereby incorporated in its entirety.

3.2 AIR VENTS AND CHLORINATION TAPS: Install where shown on the Drawings and as job conditions require for proper filling, flushing, disinfection, and testing.

3.3 TRENCH INSULATION:

- A. Install 2-inch thick by 4 feet long Styrofoam SM insulation as manufactured by Dow Chemical Co., or approved equal, between pipe and culverts and drains or where directed by District.
- B. Between pipe and culvert or drains, extend insulation 6 feet to both sides along the length of the pipe.
- C. Provide 6-inch sand blanket above and below insulation or as shown on the Drawings.

3.4 SEPARATION FROM SANITARY SEWER

- A. Maintain 10 feet horizontal separation between water main and sewer piping.
- B. Whenever water main must cross sewers, lay at such elevations that the top of the sewer is at least 18 inches below the bottom of the water main.
- C. When the elevation of the sewer cannot be buried to meet the above requirements, center one full length of water main over the sewer so that both joints will be as far from the sewer as possible.

3.5 FLUSHING AND FILLING: Shall be done by Contractor. Contractor shall not operate any valve or hydrant without the expressed permission of District.

3.6 DISINFECTION:

- A. Disinfect mains in accordance with AWWA C651, Section 4.4.3, Continuous Feed Method, except that the chlorine dosage applied shall produce a minimum initial concentration of 50 milligrams per liter and not less than 25 milligrams per liter residual after a contact period of 24 hours. AWWA C651 is appended and hereby incorporated in its entirety, except that Sections 4.4.2 and 4.4.4 are deleted.
- B. Contractor shall collect bacteriological samples to insure that disinfection is satisfactory. Samples shall be analyzed by a laboratory certified for bacteriological analysis by the State of Maine.
- C. Any segment of water main shall be considered unsuitable for service if coliform bacteria are present (one or more colonies per 100 milliliters).
- D. Re-disinfect all segments of water mains found unsuitable and retest. Continue to disinfect and test until satisfactory results are obtained.

3.7 LEAKAGE TESTING

- A. Contractor shall conduct leakage testing only after satisfactory disinfection has been confirmed by bacteriological sampling.

- B. Conduct leakage testing in accordance with AWWA C600 Section 5.2, except that Section 5.2.1.1 shall be amended to read, “Test pressure shall not be less than 100 psi or 1.25 times the working pressure, *whichever is greater*, at the highest point along the test section.”
- C. Hydrant branch valves shall remain open during leakage testing.
- D. The only acceptable repair for a leaking gasket is disassembly of the piping and installation of a new gasket.

3.8 REPAIR: The only acceptable repair for a main that shows visible signs of leakage is the re-installation of that section of main.

3.9 SERVICE INSTALLATION: Install services under line pressure following satisfactory completion of leakage tests.

**END OF SECTION**

## SECTION 03300

### CONCRETE

#### PART 1 - GENERAL

##### 1.1 DESCRIPTION

- A. Work Included: Furnish and construct cradles, arches, encasements, and thrust blocks for pipes in the locations, dimensions, and shapes shown on the Drawings or as directed by DISTRICT to rigidly support and restrain pipes and where required for separations and crossings of water mains and other utilities and structures.
- C. Related Work Specified Elsewhere (when applicable):
  - 1. Section 02600 – Pipes, Fittings, and Appurtenances Installation
  - 2. Section 02647 – Connections to Existing Mains

#### PART 2 – PRODUCTS

##### 2.1 MATERIALS

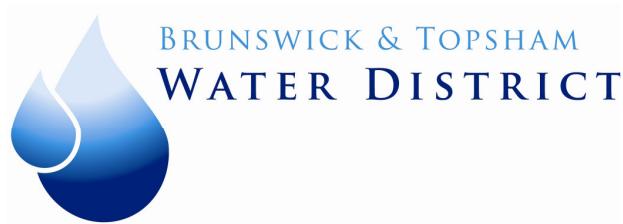
- A. Concrete Mixture:
  - 1. Minimum strength at 28 days – 3,500 psi
  - 2. Maximum size coarse aggregate – 2.5 inches
  - 3. Percent air – 5 percent
  - 4. Maximum water to cement ratio: 0.55
  - 5. Aggregates: ASTM C33
  - 6. Cement: Portland Cement, ASTM C150 Type II
  - 7. Reinforcement: ASTM A615, Grade 60

#### PART 3 – EXECUTION

##### 3.1 INSTALLATION:

- A. Construct cradles, arches, encasements, and thrust blocks the full width of the trench or as shown on the Drawings.
- B. Bearing surface shall be undisturbed soil.
- C. Secure pipe to prevent movement and flotation during placement of concrete.
- D. Place 6 mil minimum thickness polyethylene sheeting against all pipe, fittings, valves, and appurtenances prior to placement of concrete. Keep all joints, nuts, and bolts free of concrete.

**END OF SECTION**



## Water Main Material Specifications

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## **Brass (Corporations, Curb Stops and Fittings)**

### **Standards – (Use latest revisions)**

1. Brass shall be an UNS Copper Alloy C89833 in accordance with requirements of ASTM B584 for compositions and mechanical properties.
2. Underground Service Line Valves and Fittings ANSI/AWWA C800
3. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. All brass fittings shall have a stamp indicating the manufacture.
3. All brass fittings shall have a stamp “NL” indicating “no lead”.
4. All brass fittings shall be manufactured in the US or Canada.
5. All compression connections shall be Quik Style compression fitting.
6. All corporations shall be CC threads on the inlet and full port opening.
7. All corporations and curbs shall be size on size.
8. All curb stops shall have a brass ball that is teflon coated or teflon seats
9. All curb stops shall not have a drain hole and open with  $\frac{1}{4}$  turn with a stop.

### **Acceptable Manufacturers**

1. A. Y. McDonald Mfg. Co., Dubuque, IA

## **Fittings – Ductile Iron**

### **Standards – (Use latest revisions)**

1. Ductile-Iron Compact Fittings for Water Service ANSI/AWWA C153/A21.53
2. Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings ANSI/AWWA C111/A21.11
3. Cement–Mortar Lining for Ductile-Iron Pipe and Fittings ANSI/AWWA C104/A21.4
4. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. Mechanical joints are required unless otherwise specified by the District.
3. All fittings shall be manufactured in the US or Canada.
4. Class 350 pressure rating.
5. Fittings shall be double cement lined.

### **Acceptable Manufacturers**

1. Tyler Union Foundry, Tyler, TX

## **Hydrant**

### **Standards – (Use latest revisions)**

1. Dry-Barrel Fire Hydrants ANSI/AWWA C502
2. Protective Interior Coatings for Valves and Hydrants ANSI/AWWA C550
3. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. All water-way surfaces shall be fully coated with a corrosion resistant epoxy protective coating, which meets or exceeds the requirements of ANSI/AWWA C550.
3. Hydrant shall have a minimum valve opening of 5 ¼" and shoe inlet of 6" MJ.
4. Outlet nozzle configuration shall be two (2) two and one-half inch NST and one (1) four and one-half inch NST.
5. Hydrant shall have no drain hole or it should be plugged.
6. Operating nut shall be one and one-half inch bronze pentagon, open right.
7. Depth of bury shall be sized to allow breakaway flange to be within 3-9-inches of finish grade.

### **Acceptable Manufacturers**

1. American Darling B84 B5, Birmingham, AL

## **Nuts and Bolts**

### **Standards – (Use latest revisions)**

1. Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings ANSI/AWWA C111/A21.11

### **Options and Modifications to the Standards**

1. For high strength/low alloy steel bolts Corten meeting referenced standards
2. For stainless steel use Type 304 unless specified otherwise.

### **Acceptable Manufacturers**

1. North American Manufacturers

## **Pipe Joint Restraint**

### **Standards – (Use latest revisions)**

1. Ductile-Iron Pipe ANSI/AWWA C151/A21.51
2. Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings ANSI/AWWA C111/A21.11
3. Standard Specification for Ductile Iron Castings ASTM A536

### **Options and Modifications to the Standards**

1. The joint restraint ring and its wedging components shall be made of ductile iron conforming to ASTM A536.
2. Dimensions of the restrainer must allow use with standard M.J. bell conforming to AWWA C111 and AWWA C153
3. Restrainer must restrain up to 350 psi of working pressure in 3" to 16" sizes and 250 psi of working pressure in 18" to 48" sizes with a 2:1 safety factor.

### **Acceptable Manufacturers**

1. Romac Gripring (Diameters 12-inch and less), Bothell, WA
2. Romac Romagrip (Diameters greater than 12-inch), Bothell, WA
3. EBBA Mega Lug (Diameters greater than 12-inch) Eastland, TX
4. Fast-Grip Gasket, Birmingham, AL

## **Polyethylene Encasement**

### **Standards – (Use latest revisions)**

1. Polyethylene Encasement for Ductile-Iron Pipe Systems ANSI/AWWA C105/A21.5

### **Options and Modifications to the Standards**

1. Where polyethylene encasement is specified, tube type polyethylene encasement shall be installed on all ductile iron pipe and fittings in accordance with ANSI/AWWA Standard C105/A21.5, Method A.
2. Polyethylene encasement shall be either linear low-density polyethylene (LLDPE) film with a minimum thickness of 8-mil or high-density, cross-laminated polyethylene (HDCLPE) film with a minimum thickness of 4-mil.
3. Circumferential wraps of tape or plastic tie straps shall be placed at 2-ft. intervals along the barrel of the pipe.

### **Acceptable Manufacturers**

1. Approved on a case by case basis

## **Service Box and Rod**

### **Standards – (Use latest revisions)**

1. Standard Specification for Gray Iron Castings ASTM A48/A48M

### **Options and Modifications to the Standards**

1. Cast service box components shall be heavy cast iron in conformance with ASTM A48, Class 30B.
2. Service Box - Shall be 1.0" Schedule 40 steel pipe with top having 1.0" N.P.T. pipe threads for screw-on cover or coupling.
3. Service Box shall be Erie style with slide-type riser.
4. Service Box extensions require a threaded coupling with no set screw.
5. Service Box Cover shall be plug type cover that screws on service box.
6. Service Box Cover shall be tapped with a 1" rope thread with a solid brass plug with pentagon operating head.
7. Service Box Foot Piece shall have an arch that will fit over 2" ball-valve curb stops.
8. Service Rod shall have a self aligning design.
9. Service Rod shall be round and constructed of stainless steel Type 304.
10. Service Rod shall use a curb-stop attachment cotter pin that is brass.
11. Service Rod the rod "wrench-flat" shall have a minimum thickness of  $\frac{1}{4}$ " tapered to  $\frac{1}{16}$ " and width of  $\frac{9}{16}$ ".

### **Acceptable Manufacturers**

1. North American Manufacturers

## **Service Saddles**

### **Standards – (Use latest revisions)**

1. Underground Service Line Valves and Fittings ANSI/AWWA C800
2. Protective Fusion-Bonded Epoxy Coatings ANSI/AWWA C116/A21.16
3. Standard Specification for Ductile Iron Castings ASTM A536
4. Standard Classification System for Rubber Products ASTM D2000
5. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. Ductile iron grade 65-45-12.
3. Threads type CC.
4. Finish - 10 mils fusion applied nylon coating.
5. Straps, bolts, nuts and washers: stainless steel Type 304.
6. Minimum of two straps, each providing two inches or greater of bearing area.

### **Acceptable Manufacturers**

1. Romac Style 202N, Bothell, WA

## **Tapping Sleeves**

### **Standards – (Use latest revisions)**

1. Steel Pipe Flanges for Waterworks Service ANSI/AWWA C207
2. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. For size on size taps a ductile iron tapping sleeve is required, for tap diameters smaller than supply main diameter stainless steel sleeves are permitted.
3. Tapping sleeves shall conform to AWWA C-207, Class D, with rated maximum working pressure of 200 psi.
4. All sleeve and flange outlet bolts shall be stainless steel Type 304.
5. All surfaces not stainless steel shall be bituminous coated with a minimum of 4 mils dry film thickness or fusion bonded epoxy coated.
6. The sleeve shall be provided with a  $\frac{3}{4}$ " F.I.P.T. test port and brass plug for ductile and 304 ss plug for stainless steel sleeves.
7. Ductile iron tapping sleeves shall be mechanical joint with recessed outlet flange for tapping valve. The side rubber gaskets shall be rectangular in cross-section and fit into grooved channels in the casting. These gaskets shall extend the entire length of the sleeve and shall not require cutting or trimming to match MJ end gaskets.
8. Ductile iron tapping sleeve shall be AB-CD pattern to permit use of plain rubber and duck-tipped gaskets for various O.D. piping sizes.
9. Stainless steel tapping sleeves shell shall be type 304 MIG welded and fully passivated.
10. Stainless steel tapping sleeves shall have a ductile iron flange welded to the neck.

### **Acceptable Manufacturers**

1. Ductile iron tapping sleeves: American Flow Control 2800 series, Birmingham, AL
2. Stainless steel tapping sleeves: Romac SST series, Bothell, WA

## **Valve Boxes**

### **Standards – (Use latest revisions)**

1. Standard Specification for Gray Iron Castings ASTM A48
2. Ductile-Iron Compact Fittings for Water Service ANSI/AWWA C153/A21.53

### **Options and Modifications to the Standards**

1. Valve boxes and covers shall be heavy cast iron in conformance with ASTM A48, Class 30B.
2. Valve boxes shall be cast iron, two piece, sliding type with a top flange and a minimum inside shaft diameter of 5 ¼-inches.
3. Boxes shall have the word "water" clearly cast into the cover.
4. Valve Boxes shall have a 36" top and a 48" base, unless otherwise directed by District.
5. Valve box and component bituminous coating shall meet the exterior coating requirements of ANSI/AWWA C153/A21.53

### **Acceptable Manufacturers**

1. North American Manufacturers

## **Water Pipe – Ductile Iron (DI)**

### **Standards – (Use latest revisions)**

1. Ductile-Iron Pipe ANSI/AWWA C151/A21.51
2. Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings ANSI/AWWA C111/A21.11
3. Cement–Mortar Lining for Ductile-Iron Pipe and Fittings ANSI/AWWA C104/A21.4
4. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. Push-on joints unless otherwise specified by the District.
3. Class 52 unless otherwise specified by the District.
4. Pipe shall be double cement lined.
5. Pipe shall be zinc coated with 200g/m<sup>2</sup> per ISO 8179-1
6. Diameters 6-inch and greater shall be 20 feet in length unless otherwise specified by the District.
7. Pipe shall be warranted in writing from the supplier to be free of defects for 10 years, any replacement shall include all associated labor costs and will be at “no charge” to the District.

### **Acceptable Manufacturers**

1. American Pipe, Birmingham, AL

## **Water Pipe – Polyvinyl Chloride (PVC)**

### **Standards – (Use latest revisions)**

1. Standard Specification for Polyvinyl Chloride (PVC) Pressure-Rated Pipe ASTM D2241
2. Elastomeric Seals (Gaskets) for Joining Plastic Pipe ASTM F477
3. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. For all water main installations that are less than 4-inch (4-inch and larger use ductile iron), the District will require use of 2-inch PVC water pipe. Under special site conditions the District does require the use of C-900 PVC in sizes larger than 4-inch.
3. SDR 21 for 2-inch unless otherwise specified by the District.
4. Tracer wire shall be HMW-PE insulation, 45 mils, blue, 12-AWG solid copper.
5. Diameters 2-inch and greater shall be 20 feet in length unless otherwise specified by the District.
6. Pipe shall be warranted in writing from the supplier to be free of defects for 10 years, any replacement shall include all associated labor costs and will be at “no charge” to the District.

### **Acceptable Manufacturers**

1. J-M Eagle, Livingston, NJ or IPEX Inc, Verdun, QC

### **Water Service Pipe – Copper (Cu)**

#### **Standards – (Use latest revisions)**

1. Federal Specification WW-T 7996
2. Standard Specification for Seamless Copper Water Tube ASTM B75 & ASTM B88
3. Standard Specification for Seamless Copper Water Tube, Bright Annealed ASTM B68
4. Drinking Water System Components – Health Effects NSF/ANSI 61

#### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. Type K
3. Services shall be one solid piece unless otherwise specified by the District.

#### **Acceptable Manufacturers**

1. Weiland Copper Products, LLC., Pine Hill, North Carolina

### **Water Service Pipe – Polyethylene (PE)**

#### **Standards – (Use latest revisions)**

1. Polyethylene (PE) Pressure Pipe and Tubing for Water Service ANSI/AWWA C901
2. Drinking Water System Components – Health Effects NSF/ANSI 61

#### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. For all water service installations that are 2-inch the District will permit the use of 2 PE pipe. (For all larger installations DI pipe is required. For all smaller installations copper pipe is required.)
3. Pipe shall be CTS pipe rated for 200 psi unless otherwise specified by the District.
4. Tracer wire shall be HMW-PE insulation, 45 mils, blue, 12-AWG solid copper.
5. Services shall be one solid piece unless otherwise specified by the District.

#### **Acceptable Manufacturers**

1. ADS / Hancor, Inc., Hilliard, OH

## **Water Valve – Butterfly Valve**

### **Standards – (Use latest revisions)**

1. Rubber-Seated Butterfly Valves ANSI/AWWA C504
2. Protective Fusion-Bonded Epoxy Coatings ANSI/AWWA C116/A21.16
3. Protective Interior Coatings for Valves and Hydrants ANSI/AWWA C550
4. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. All water-way surfaces shall be fully coated with a corrosion resistant epoxy protective coating, which meets or exceeds the requirements of ANSI/AWWA C116/A21.16 or NSI / AWWA C550, whichever is stricter.
3. All valves shall have an exterior corrosion resistant epoxy protective coating. Valves shall have 301 stainless steel bolts and nuts for direct bury.
4. All valves shall be open right with 2" square ductile iron operating nut.
5. Butterfly valves shall be MJ fitting unless otherwise specified by the District.
6. Valves shall have bevel gear operators driven by the operating nut., with a 4:1 bevel gear operators. Number of turns to open or close shall closely match the formula:  $((3 \times D) + 2) \times 4$ .
7. Butterfly valves acceptable for mains and services 16-inches in diameter and larger.

### **Acceptable Manufacturers**

1. Henry Pratt Company, Aurora, IL

## **Water Valve – Resilient Seated Valve**

### **Standards – (Use latest revisions)**

1. Resilient-Seated Gate Valves for Water Supply Service ANSI/AWWA C515
2. Reduced-Wall, Resilient-Seated Gate Valves for Water Supply Service ANSI/AWWA C515
3. Protective Fusion-Bonded Epoxy Coatings ANSI/AWWA C116/A21.16
4. Protective Interior Coatings for Valves and Hydrants ANSI/AWWA C550
5. Drinking Water System Components – Health Effects NSF/ANSI 61

### **Options and Modifications to the Standards**

1. Materials in contact with potable water shall be certified NSF/ANSI 61 per the standard.
2. Resilient wedge valve shall be completely manufactured of light-weight, high strength ductile iron with a wall thickness, which meets or exceeds the requirements of ANSI/AWWA C515.
3. All water-way surfaces shall be fully coated with a corrosion resistant epoxy protective coating, which meets or exceeds the requirements of ANSI/AWWA C116/A21.16 or NSI / AWWA C550, whichever is stricter.
4. All valves shall have an exterior corrosion resistant epoxy protective coating. Valves shall have 301 stainless steel bolts and nuts for seal plate and bonnet.
5. All valves shall be open right with 2" square ductile iron operating nut.
6. Gate valves shall be MJ fitting unless otherwise specified by the District (e.g. tapping sleeves)
7. Gate valves acceptable for mains and services 4-12-inches in diameter.

### **Acceptable Manufacturers**

1. American Flow Control 2500, Birmingham, AL

**ATTACHMENT D**  
**CONSTRUCTION DRAWINGS**

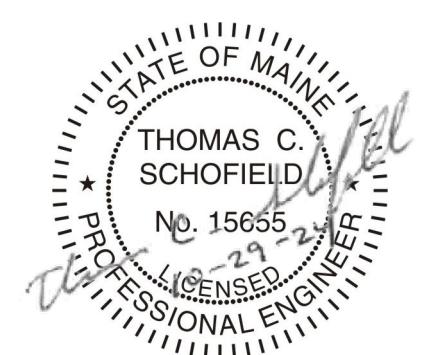
# BRUNSWICK AND TOPSHAM WATER DISTRICT

## OLD BATH ROAD WATER MAIN EXTENSION

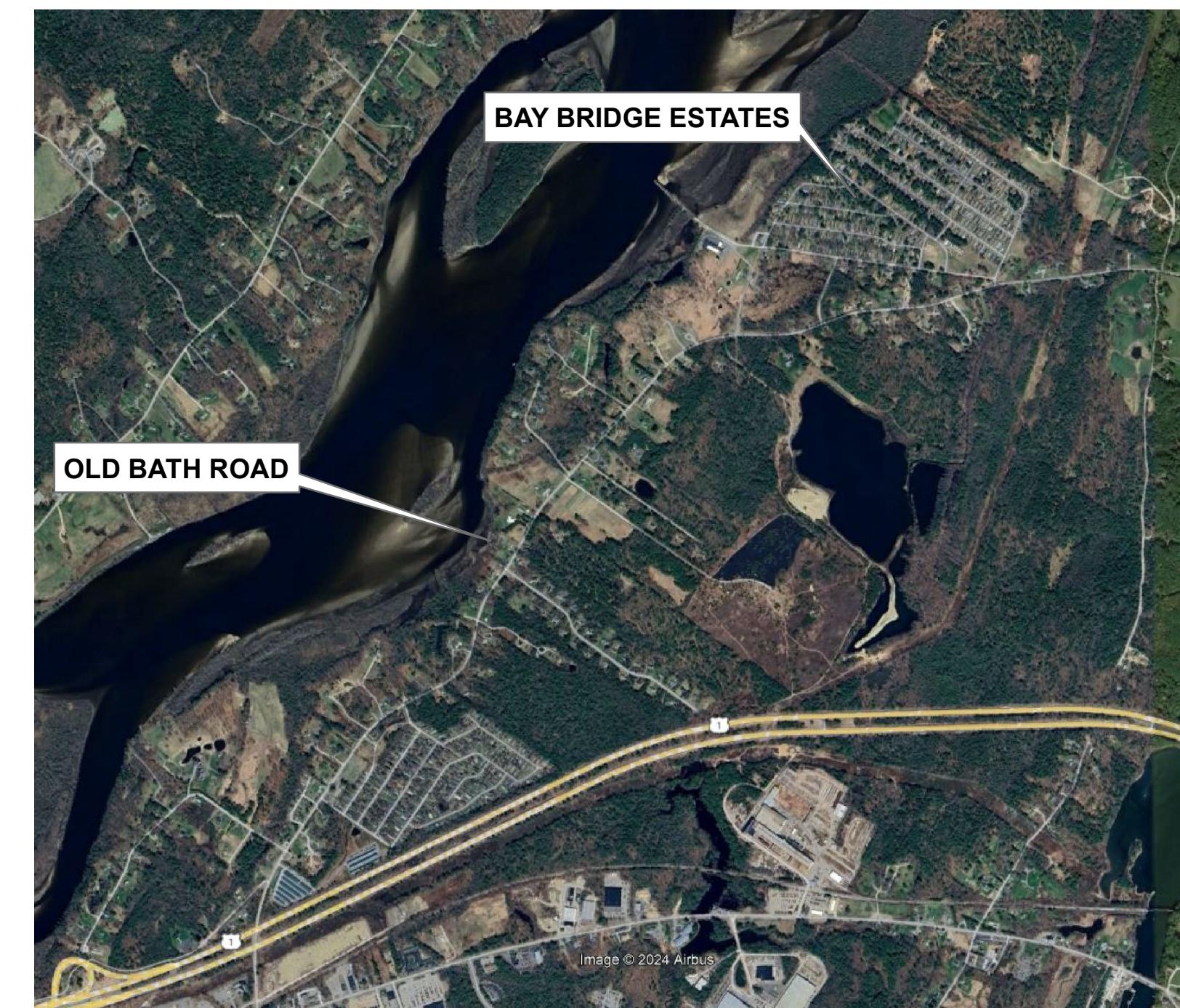
BRUNSWICK, MAINE

OCTOBER 2024

PROJECT# 25-181-001



### LOCATION MAP



### DRAWING INDEX

- COVER SHEET
- 1 GENERAL NOTES & LEGEND
- 2 DETAILS SHEET 1
- 3 DETAILS SHEET 2
- 4 PLAN SHEET 1
- 5 PLAN SHEET 2
- 6 PLAN SHEET 3
- 7 PLAN SHEET 4
- 8 PLAN SHEET 5



BRUNSWICK & TOPSHAM  
WATER DISTRICT

## GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS ASSOCIATED WITH THIS PROJECT, EXCEPTING THE UTILITY LOCATION PERMIT(S).

2. THE CONTRACTOR SHALL BE REQUIRED TO FURNISH AND MAINTAIN A TELEPHONE NUMBER WHERE THE CONTRACTOR CAN BE REACHED 24 HOURS A DAY, 7 DAYS A WEEK, UNTIL THE PROJECT HAS REACHED SUBSTANTIAL COMPLETION.

3. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE REGULATIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA).

4. CONTRACTOR SHALL INSTALL AND MAINTAIN TRAFFIC CONTROL DEVICES AS NECESSARY AND IN A MANNER CONSISTENT WITH THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (M.U.T.C.D.).

5. ALL SEDIMENT AND EROSION CONTROL MEASURES SHALL BE DONE IN ACCORDANCE WITH THE "MAINE EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES", MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION, DATED OCTOBER 2016.

6. THE CONTRACTOR IS REQUIRED TO SUBMIT A TRAFFIC CONTROL PLAN AT THE PRECONSTRUCTION MEETING FOR APPROVAL BY THE DISTRICT AND TOWN PRIOR TO COMMENCING CONSTRUCTION. THE BRUNSWICK POLICE DEPARTMENT (725-6620) AND FIRE DEPARTMENT (725-5541) ARE TO BE NOTIFIED AT LEAST 24 HOURS IN ADVANCE OF ANY STREET CLOSING OR DETOUR. ALL LANES ARE TO REMAIN OPEN WHEN THE CONTRACTOR IS NOT ON SITE.

7. THE CONTRACTOR SHALL ASCERTAIN THE LOCATION AND SIZE OF EXISTING UTILITIES IN THE FIELD WITH THE RESPECTIVE UTILITY COMPANY REPRESENTATIVE PRIOR TO COMMENCING WORK. ADDITIONAL TEST PITS, BEYOND THOSE SHOWN, MAY BE REQUIRED. UTILITY CONTACTS ARE AS FOLLOWS:

**ELECTRIC:**  
CENTRAL MAINE POWER  
83 EDISON DRIVE  
AUGUSTA, MAINE 04336  
TEL. 1-800-565-3181

**TELEPHONE:**  
FAIRPOINT  
TEL. 1-888-344-7233

**SEWER:**  
BRUNSWICK SEWER DISTRICT  
TEL. 1-207-729-0148

**STORM DRAIN:**  
BRUNSWICK PUBLIC WORKS  
TEL. 1-207-725-6654

**DIG SAFE:**  
TEL. 1-888-344-7233

8. THE LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES AS SHOWN ON THE DRAWINGS ARE APPROXIMATE AND MAY NOT BE COMPLETE. ALL LOCATIONS AND SIZES OF EXISTING UTILITIES SHALL BE VERIFIED IN THE FIELD WITH TEST PITS.

9. PROPOSED PIPELINE, VALVE, AND HYDRANT LOCATIONS ARE APPROXIMATE. FINAL LOCATION MAY BE ADJUSTED, WITH DISTRICT AUTHORIZATION, AS REQUIRED TO AVOID CONFLICTS WITH OTHER UTILITIES AND STRUCTURES.

10. ALL EXISTING UTILITIES ENCOUNTERED DURING CONSTRUCTION ARE TO REMAIN IN SERVICE UNLESS OTHERWISE NOTED.

11. THE LOCATION AND LIMITS OF ALL ON-SITE WORK AND STORAGE AREAS SHALL BE REVIEWED/COORDINATED WITH, AND ACCEPTABLE TO THE DISTRICT AND TOWN. THE CONTRACTOR SHALL LIMIT HIS ACTIVITIES TO THESE AREAS. THE CONTRACTOR IS RESPONSIBLE FOR IDENTIFYING, CONTRACTING AND MAINTAINING ALL STAGING, STORAGE AND EASEMENT AREAS TO COMPLETE THE WORK.

12. COORDINATION OF SHUT DOWNS NEED TO BE MADE SEVEN (7) DAYS IN ADVANCE OF THE SHUTDOWN TO ALLOW FOR CUSTOMER NOTIFICATION. IF THE SHUTDOWN IS FOR MORE THAN 8 HOURS, TEMPORARY SERVICE IS REQUIRED. THE CONTRACTOR SHALL PROVIDE ALL TEMPORARY SERVICES.

13. THE CONTRACTOR SHALL NOT OPERATE ANY DISTRICT VALVE OR HYDRANT WITHOUT THE EXPRESSED PRIOR PERMISSION OF THE DISTRICT.

14. ALL EXISTING WATER MAINS THAT ARE REMOVED ARE TO BE DISPOSED OF BY THE CONTRACTOR MEETING ALL LOCAL AND STATE REGULATIONS.

15. ALL FITTINGS, VALVES, AND HYDRANTS SHALL HAVE MECHANICAL JOINTS RESTRAINED WITH "GRIP-RING" RESTRAINERS FOR 12-INCH AND SMALLER. FOR ALL LARGER FITTINGS USE "MEGALUG" STYLE RESTRAINERS.

16. MINIMUM DEPTH OF COVER FOR ALL WATER MAINS AND SERVICES SHALL BE 5'-0" FROM FINISHED GRADE UNLESS OTHERWISE DIRECTED BY THE DISTRICT.

17. TEST PITS SHALL BE EXCAVATED AT CROSSINGS WITH OTHER UTILITIES IN ADVANCE OF WATER MAIN CONSTRUCTION TO DETERMINE LOCATION AND DEPTH SUFFICIENTLY TO PERMIT ADJUSTMENT OF WATER MAIN ALIGNMENT AND DEPTH BY PIPE DEFLECTION.

18. WHEN WATER AND WASTEWATER LINES INTERSECT, WATER LINES SHOULD BE INSTALLED OVER WASTEWATER LINES WHEN POSSIBLE. A MINIMUM SEPARATION OF 18 INCHES BETWEEN THE BOTTOM OF THE WATER LINE AND THE TOP OF THE WASTEWATER LINE SHALL BE MAINTAINED IF POSSIBLE. WHERE A WATER LINE CROSSES UNDER A WASTEWATER LINE, A FULL LENGTH OF PIPE SHALL BE CENTERED ABOVE THE WATER LINE SO THAT BOTH JOINTS WILL BE AS FAR FROM THE WATER LINE AS POSSIBLE.

19. ALL PIPE LINES SHALL SLOPE UNIFORMLY BETWEEN ELEVATIONS INDICATED ON THE DRAWINGS. NO CRESTS IN PIPING WILL BE PERMITTED. ALL HORIZONTAL AND VERTICAL BENDS IN PRESSURIZED LINES SHALL BE SUITABLY RESTRAINED WITH THRUST BLOCKS OR GRIP RINGS. WHERE CRESTS ARE UNAVOIDABLE AIR RELIEFS AS SPECIFIED IN THE DETAIL SHEET SHALL BE PROVIDED.

20. WHERE NEW PIPING IS TO BE CONNECTED TO EXISTING PIPING, THE CONTRACTOR SHALL INSTALL ALL ADAPTORS, FITTINGS AND ADDITIONAL PIPE AS REQUIRED TO COMPLETE THE CONNECTION. CONTRACTOR SHALL VERIFY LOCATION, ELEVATION, ORIENTATION AND MATERIAL OF CONSTRUCTION. TEST PITS SHALL BE USED AS REQUIRED.

21. THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL DEBRIS AND EXCESS MATERIAL FROM THE LIMIT OF WORK TO A SUITABLE SITE PROVIDED BY THE CONTRACTOR IN COMPLIANCE WITH ALL LOCAL AND STATE REGULATIONS. ANY EXCESS SUITABLE MATERIALS MAY REMAIN ON SITE AT THE REQUEST OF THE DISTRICT.

22. THE COMPLETED PIPING SYSTEM SHALL BE FLUSHED, DISINFECTED, AND PRESSURE TESTED IN ACCORDANCE WITH ANSI/AWWA C600 BY THE CONTRACTOR PRIOR TO CHARGING THE SYSTEM. SERVICES SHALL BE INSTALLED UNDER LINE PRESSURE AFTER THE SYSTEM IS CHARGED.

23. THE CONTRACTOR IS RESPONSIBLE FOR THE APPROPRIATE DISPOSAL OF FLOWS RESULTING FROM PRECIPITATION, DEWATERING, FLUSHING AND DISINFECTION OPERATIONS. THIS INCLUDES DECHLORINATION OF CHLORINATED WATERS.

24. THE CONTRACTOR SHALL REMOVE AND REPLACE OR REPAIR ALL CURBS, SIDEWALKS, PAVEMENT AND ALL OTHER ITEMS DAMAGED BY THE CONTRACTOR'S ACTIVITIES TO AT LEAST THEIR ORIGINAL CONDITION AND TO THE SATISFACTION OF THE DISTRICT.

25. THE CONTRACTOR SHALL BE RESPONSIBLE FOR RE-ESTABLISHING AND RESETTING ALL EXISTING PROPERTY MONUMENTATION DISTURBED BY THIS OPERATION. THIS WORK SHALL BE DONE BY A LAND SURVEYOR REGISTERED IN THE STATE OF MAINE, AT NO ADDITIONAL COST TO THE DISTRICT.

26. THE CONTRACTOR WILL BE RESPONSIBLE FOR PAYING INSPECTION SERVICES ON SATURDAY AND SUNDAY AT 90 DOLLARS PER HOUR.

27. THE DISTRICT WILL PROVIDE PIPING MATERIAL FOR CONSTRUCTION FOR THE NEW WATER MAIN AND SERVICES. THIS INCLUDES PIPING, VALVES, CORPORATIONS, HYDRANTS, MECHANICAL JOINT RESTRAINTS, AND FITTINGS.

28. ALL MATERIALS ASSOCIATED WITH BEDDING, BACKFILLING, THRUST BLOCKING, AND EXCAVATION ARE CONSIDERED INCIDENTAL AND TO BE PROVIDED BY THE CONTRACTOR, THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING DELIVERY, STORAGE AND STAGING OF ALL CONSTRUCTION MATERIALS.

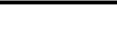
29. ALL WORK AND MATERIALS SHALL MEET APPLICABLE AWWA/ANSI STANDARDS UNLESS OTHERWISE MODIFIED BY THE DISTRICT IN THE DISTRICT'S GUIDELINES, POLICIES, DETAILS, OR MATERIAL SPECIFICATIONS.

30. EXISTING WATER MAINS TO BE ABANDONED IN PLACE SHALL BE CUT AND CAPPED WITH END PLUG OR END CAP.

31. ANY PUSH-ON BELL JOINT WITHIN TWENTY FEET OF A FITTING REQUIRES A FIELD-LOK GASKET.

32. CONTRACTOR SHALL BE RESPONSIBLE FOR INSTALLING THE MAIN IN ACCORDANCE WITH AWWA C600, EXCEPTING THAT THE MAXIMUM PIPE DEFLECTION SHALL NOT EXCEED 75 PERCENT OF THE MAXIMUM ALLOWABLE DEFLECTION SPECIFIED.

## LEGEND

-  Proposed Water
-  Proposed Hydrant Laterals
-  Proposed Service Lines
-  Existing Water
-  Existing Gas Main
-  Existing Sewer
-  Existing Storm Drain
-  Edge of Pavement
-  Property Lines
-  Buildings
-  Proposed Main Line Valves
-  Proposed Hydrants
-  Proposed Hydrant Valves
-  Proposed Service Valves
-  Existing Main Line Valves
-  Existing Hydrants
-  Existing Hydrant Valves
-  Existing Service Valves
-  Existing Sewer Manhole
-  Existing Storm Drain Manhole

DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
APPROVED BY: TCS  
DATE: 10/29/2024  
PROJECT NO: 25-181-001  
SCALE: N/A

BRUNSWICK & TOPSHAM  
WATER DISTRICT

PO BOX 489  
TOPSHAM, ME 04086

OLD BATH ROAD  
WATER MAIN EXTENSION  
BRUNSWICK, ME

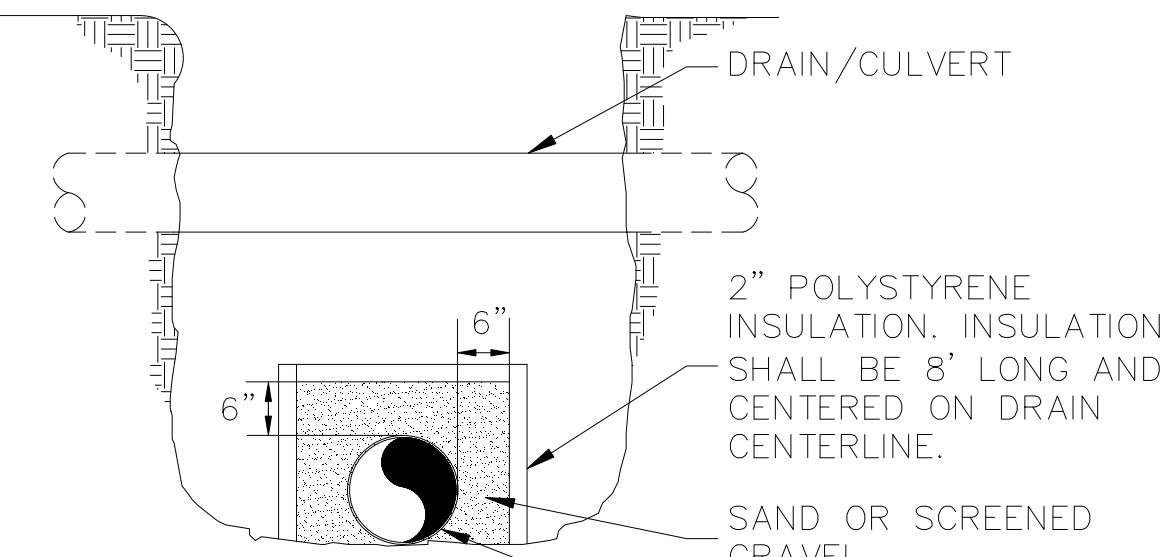
GENERAL NOTES & LEGEND

## ABBREVIATIONS

|        |  |
|--------|--|
| AC     | Asbestos Concrete                      |
| BFV    | Butterfly Valve                        |
| BV     | Ball Valve                             |
| CI     | Cast Iron                              |
| CU     | Copper                                 |
| DI     | Ductile Iron                           |
| GV     | Gate Valve                             |
| HDPE   | High Density Polyethylene              |
| PE CTS | Polyethylene Tubing Copper Tubing Size |
| PVC    | Polyvinyl Chloride                     |

#### GENERAL NOTES

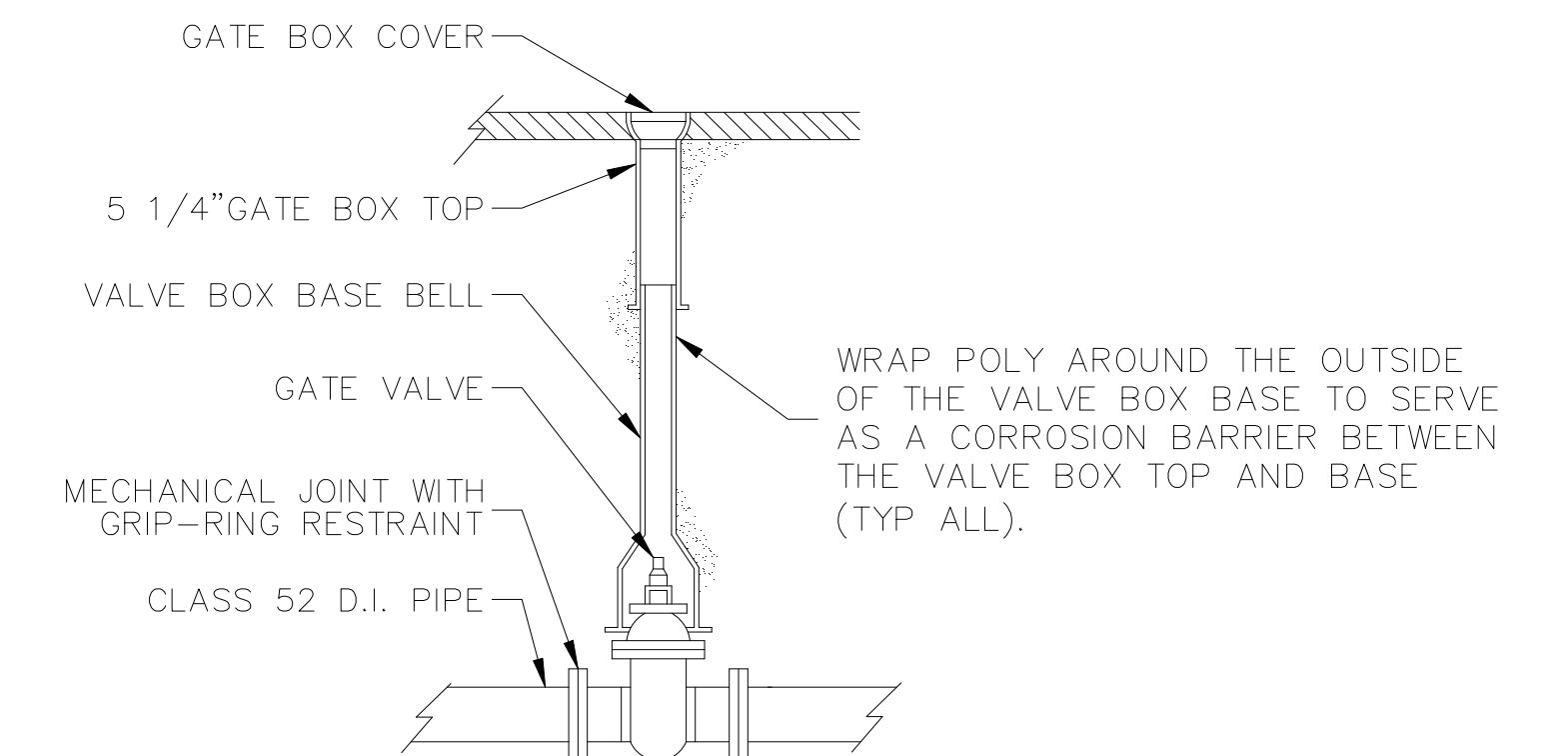
1. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS.
2. ALL WORK AND MATERIALS SHALL MEET APPLICABLE AWWA/ANSI STANDARDS UNLESS OTHERWISE MODIFIED BY THE DISTRICT IN THE DISTRICT'S GUIDELINES, POLICIES, DETAILS, OR MATERIAL SPECIFICATIONS.
3. TEST PITS SHALL BE EXCAVATED AT CROSSINGS WITH OTHER UTILITIES IN ADVANCE OF WATER MAIN CONSTRUCTION TO DETERMINE LOCATION AND DEPTH SUFFICIENTLY TO PERMIT ADJUSTMENT OF WATER MAIN ALIGNMENT AND DEPTH BY PIPE DEFLECTION.
4. MINIMUM DEPTH OF COVER FOR ALL WATER MAINS AND SERVICES SHALL BE 5'-0" FROM FINISHED GRADE UNLESS OTHERWISE DIRECTED BY THE DISTRICT.
5. PROPOSED PIPELINE, VALVE, AND HYDRANT LOCATIONS ARE APPROXIMATE. FINAL LOCATION MAY BE ADJUSTED, WITH WRITTEN DISTRICT PERMISSION, AS REQUIRED TO AVOID CONFLICTS WITH OTHER UTILITIES AND STRUCTURES.
6. EXISTING WATER MAINS TO BE ABANDONED IN PLACE SHALL BE CUT AND CAPPED WITH END PLUG OR END CAP.
7. ALL FITTINGS, VALVES, AND HYDRANTS SHALL HAVE MECHANICAL JOINTS RESTRAINED WITH "GRIP-RING" RESTRAINERS.
8. ANY PUSH-ON BELL JOINT WITHIN TWENTY FEET OF A FITTING REQUIRES A FIELD-LOK GASKET.
9. CONTRACTOR SHALL BE RESPONSIBLE FOR INSTALLING THE MAIN IN ACCORDANCE WITH AWWA C600, EXCEPTING THAT MAXIMUM PIPE DEFLECTION SHALL NOT EXCEED 75 PERCENT OF THE MAXIMUM ALLOWABLE DEFLECTION SPECIFIED.
10. THE COMPLETED PIPING SYSTEM SHALL BE FLUSHED, DISINFECTED, AND PRESSURE TESTED BY THE CONTRACTOR IN THAT ORDER. THESE TESTS ARE DETAILED IN ANSI/AWWA C651 AND AWWA C600. ONCE ALL TESTS HAVE BEEN PASSED THE MAIN CAN BE ACTIVATED. SERVICES SHALL BE INSTALLED UNDER LINE PRESSURE AFTER THE SYSTEM HAS BEEN ACTIVATED.
11. THE CONTRACTOR SHALL NOT OPERATE ANY DISTRICT VALVE OR HYDRANT WITHOUT THE EXPRESSED PRIOR PERMISSION OF THE DISTRICT.



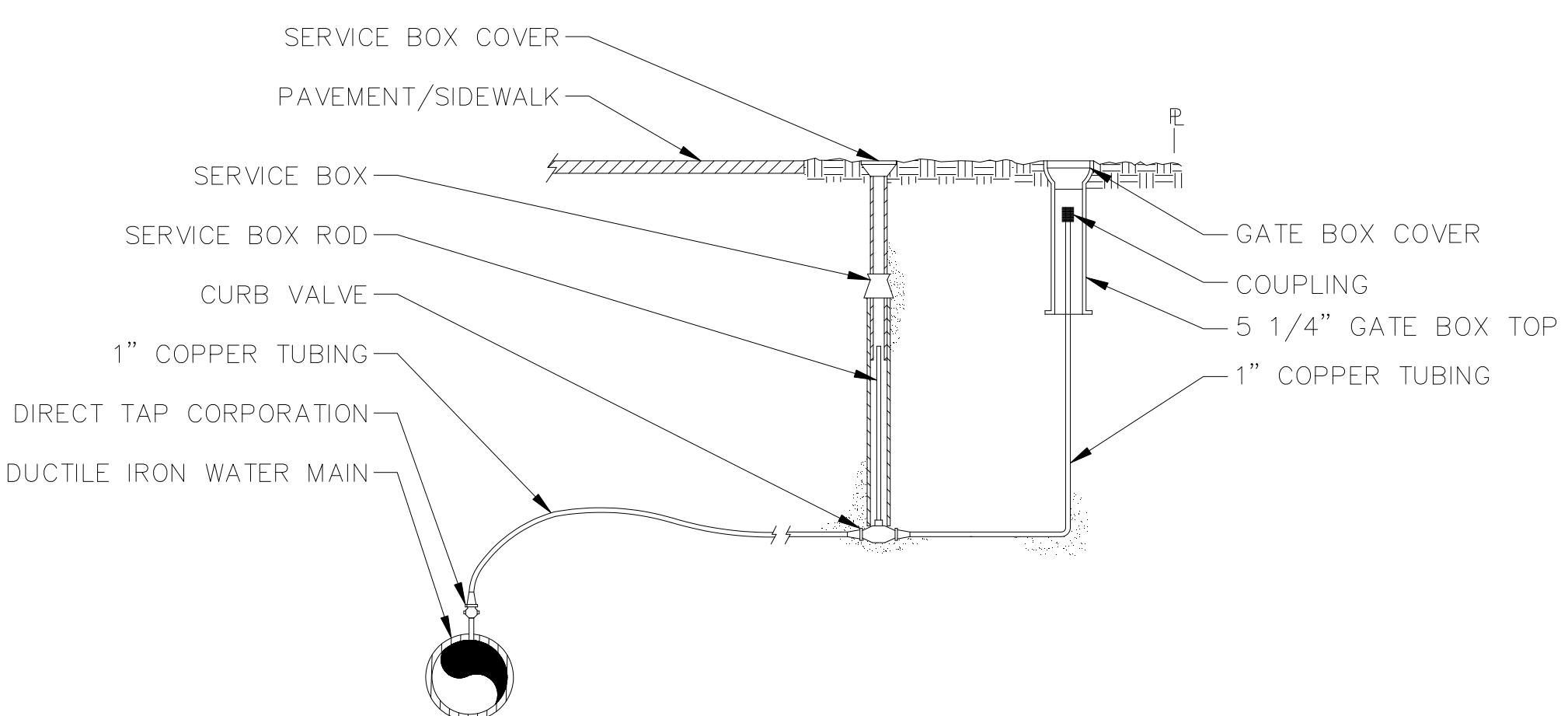
NOTES: INSULATION IS REQUIRED AT ALL DRAIN & CULVERT CROSSINGS THAT DO NOT PROVIDE A MINIMUM OF 18" OF VERTICAL SEPARATION

#### INSULATION DETAIL

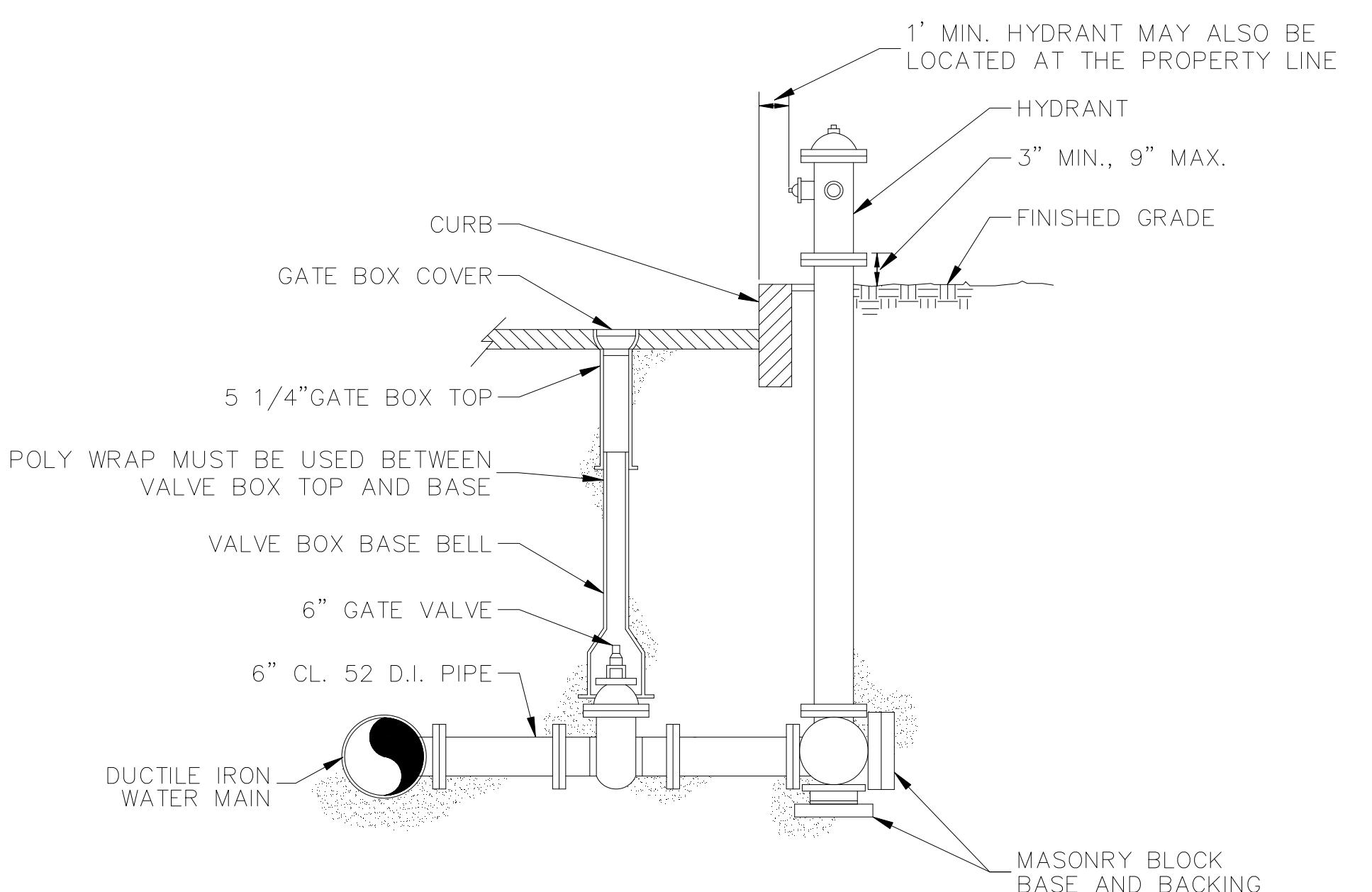
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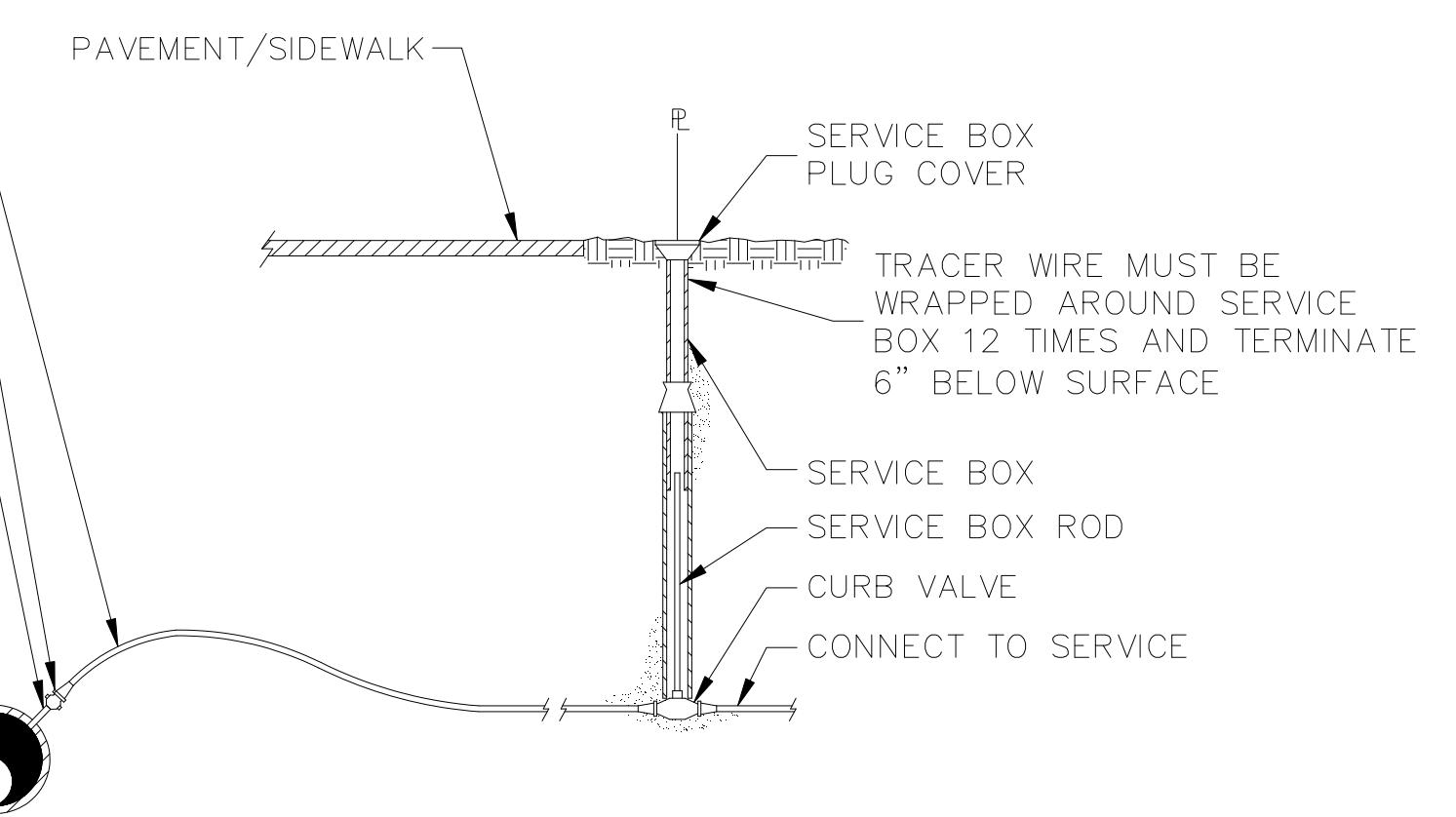
**GATE VALVE**  
NTS



**AIR RELIEF**  
NTS



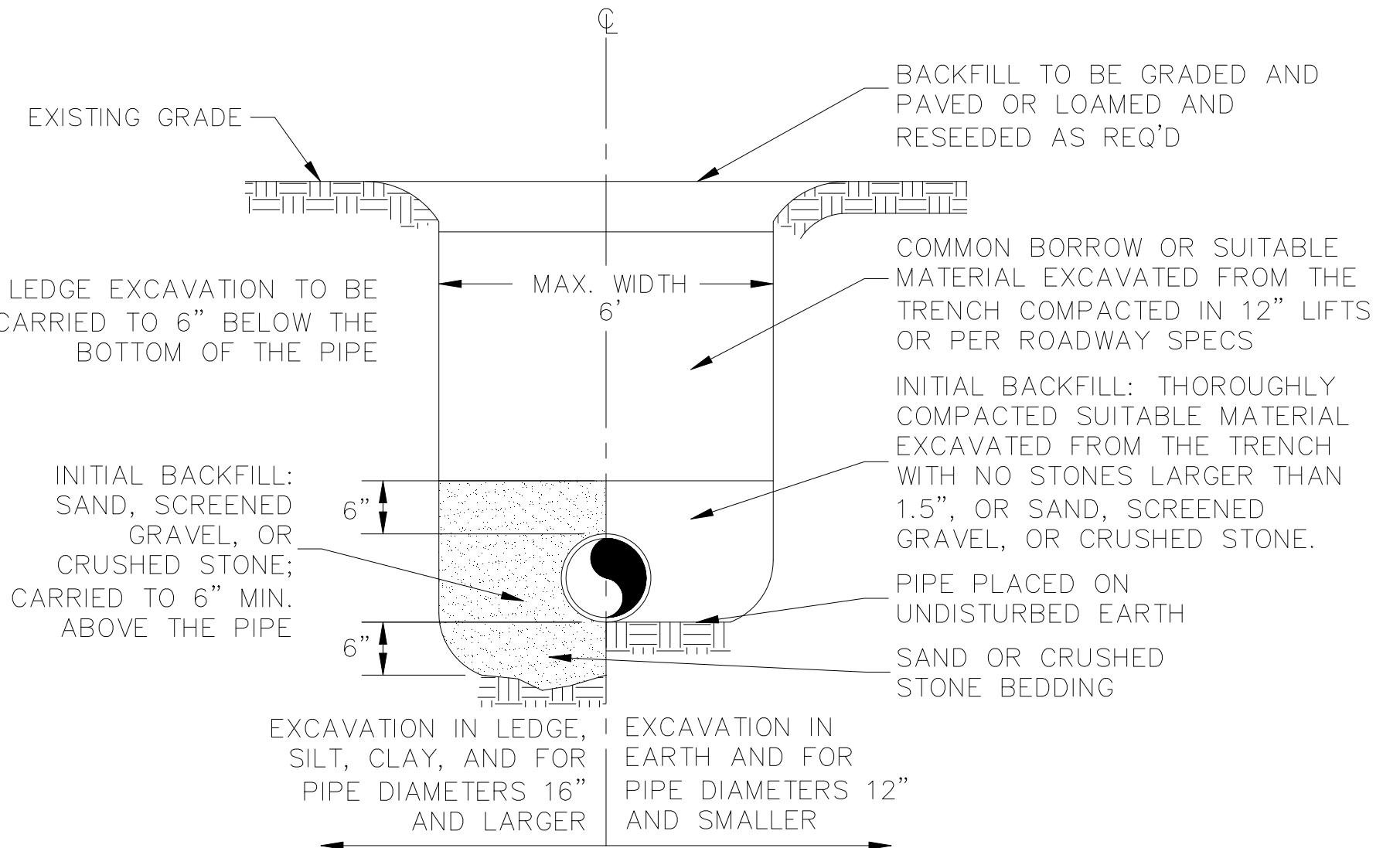
**FIRE HYDRANT**  
NTS



NOTES: TRACER WIRE MUST BE PROVIDED FOR 2" PECTS

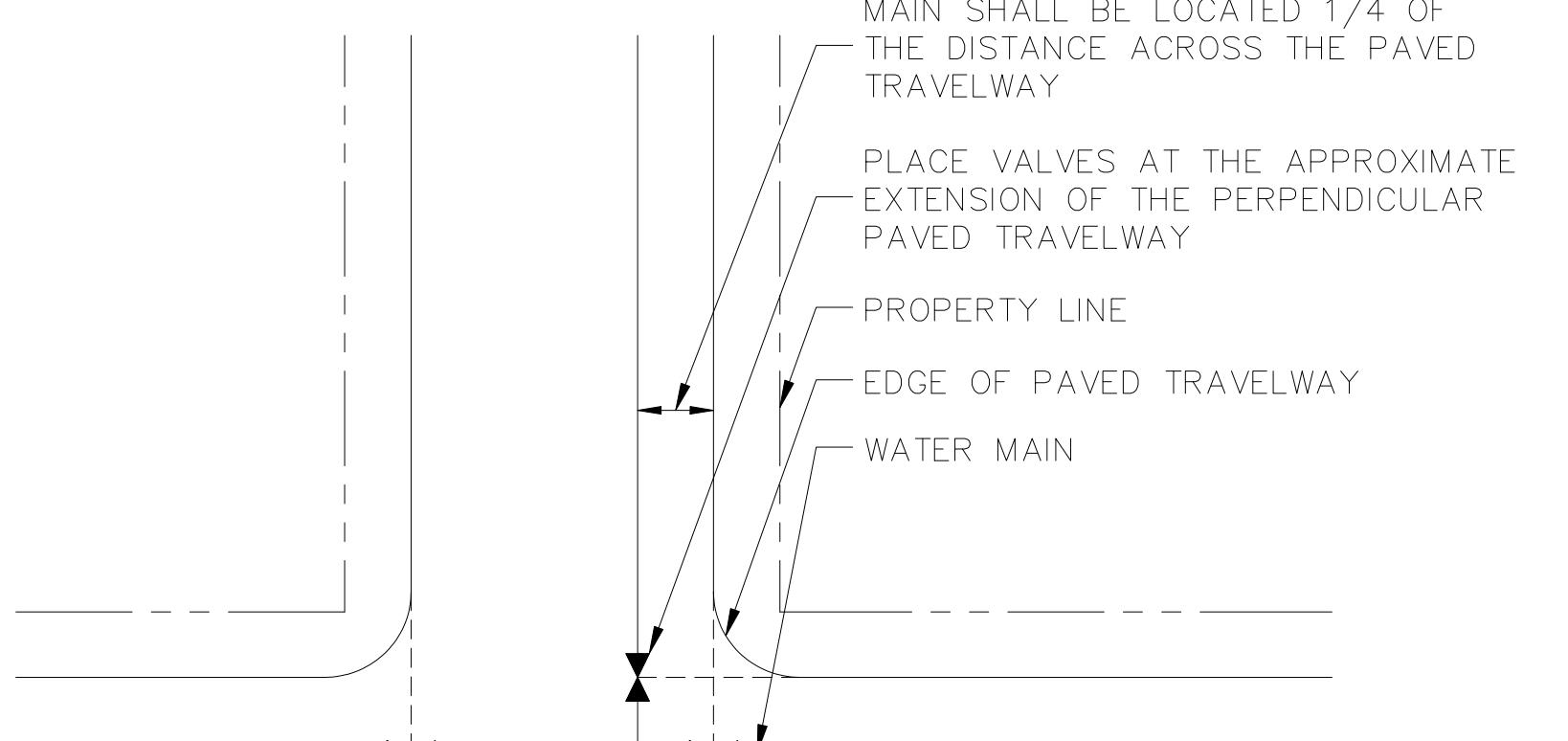
#### SERVICE DETAIL

NTS



#### TRENCH DETAIL

NTS



#### VALVE AND WATER MAIN LOCATION

NTS

REVISED 1/28/2013

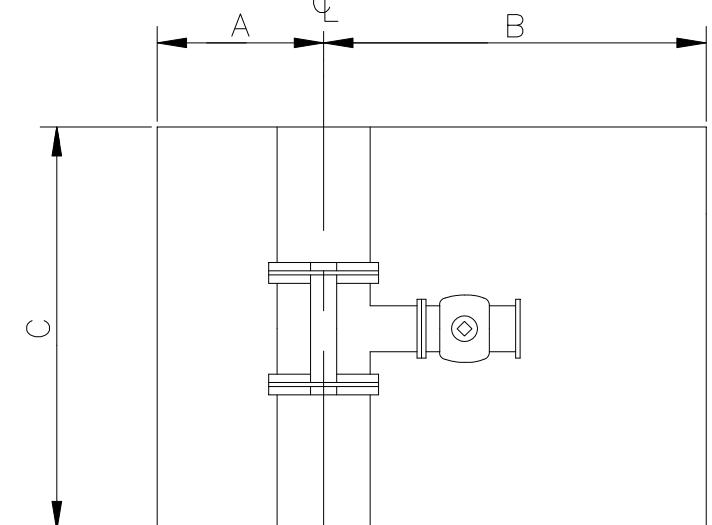
BRUNSWICK AND TOPSHAM WATER DISTRICT  
TOPSHAM, ME  
DETAILS SHEET 1

BRUNSWICK & TOPSHAM WATER DISTRICT  
PO BOX 489  
TOPSHAM, ME 04066

DETAILS SHEET 1

DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
PROJECT NO.: \_\_\_\_\_  
SCALE: \_\_\_\_\_

SHEET 2 OF 8



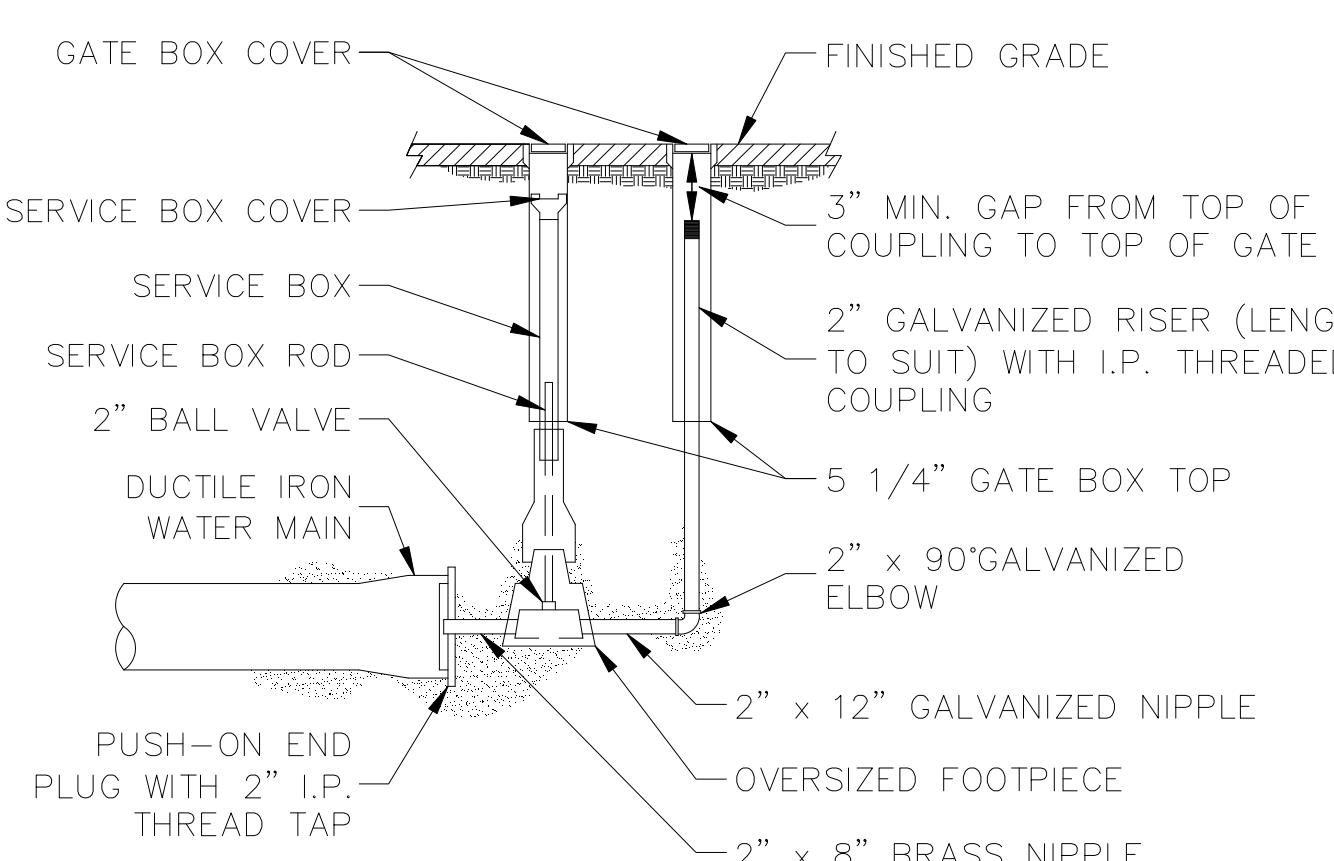
| MAIN SIZE    | A     | B      | C     |
|--------------|-------|--------|-------|
| 4", 6", & 8" | 2' 0" | 9' 0"  | 5'-0" |
| 10" & 12"    | 2' 0" | 10' 0" | 5' 0" |
| 16"          | 2' 0" | 11' 0" | 6' 0" |

NOTE:

1. EXCAVATION DEPTH TO BE 1' BELOW BOTTOM OF MAIN
2. LARGER THAN 16" TO BE ENGINEERED WITH TAPPING CONTRACTOR

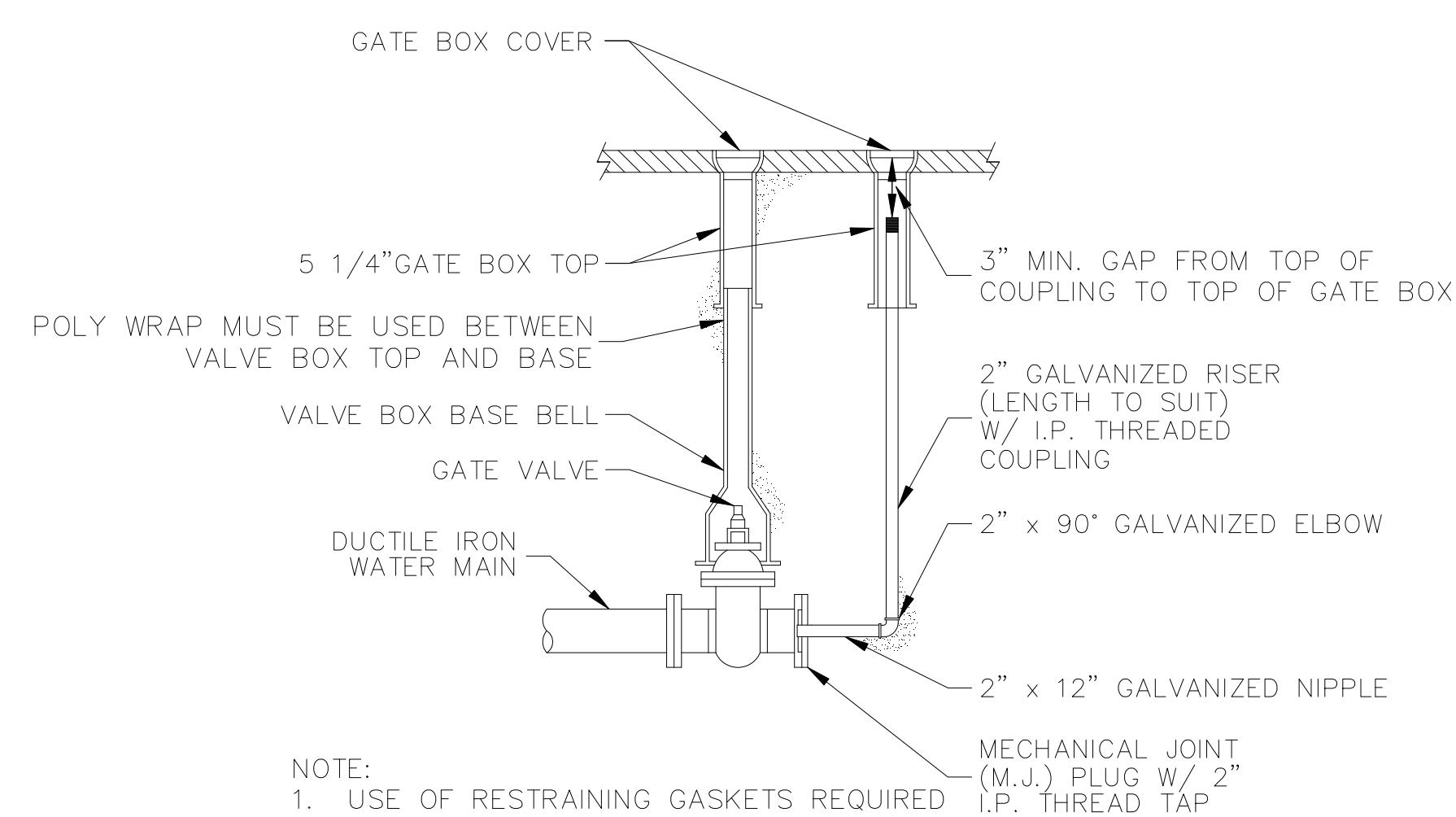
### EXCAVATION DIMENSIONS TAPPING SLEEVES AND VALVES

NTS



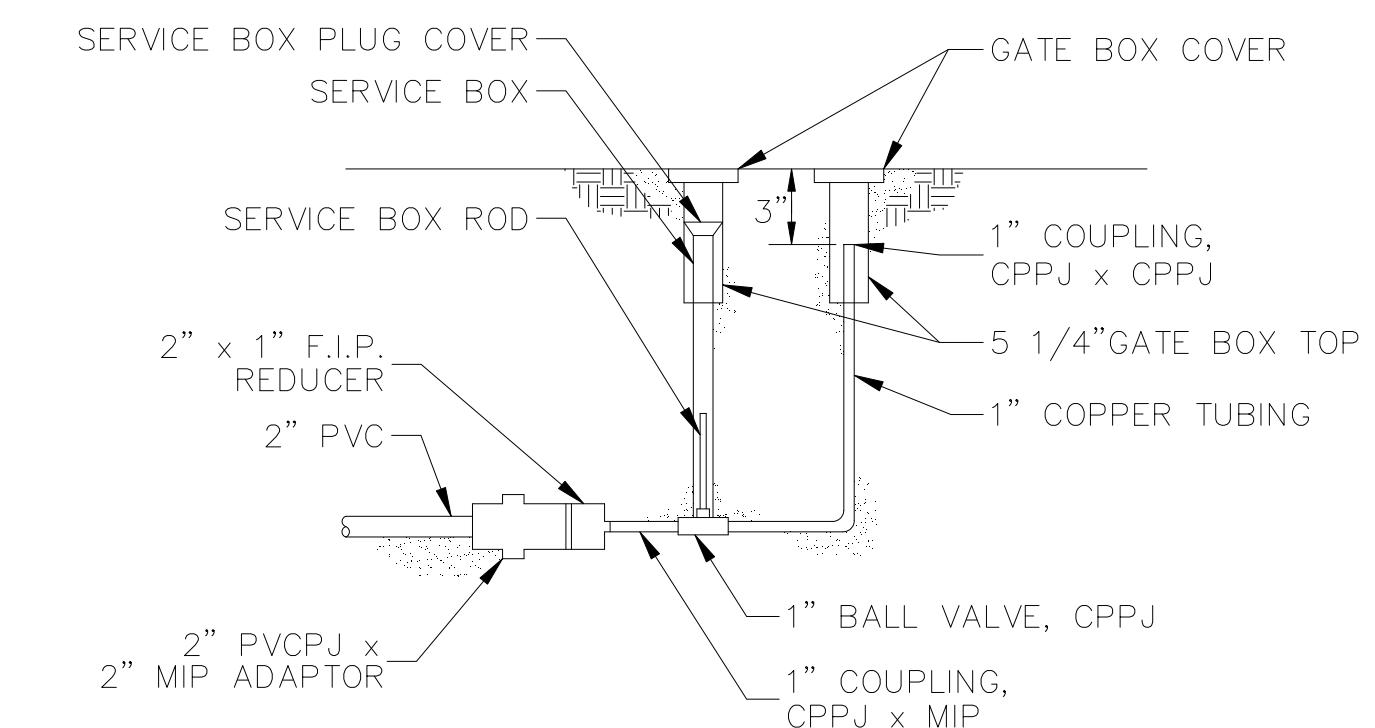
### BLOWOFF ASSEMBLY

NTS



### M.J. PLUG TO 2" BLOWOFF ASSEMBLY

NTS



### 2" PVC TO 1" BLOWOFF ASSEMBLY

NTS

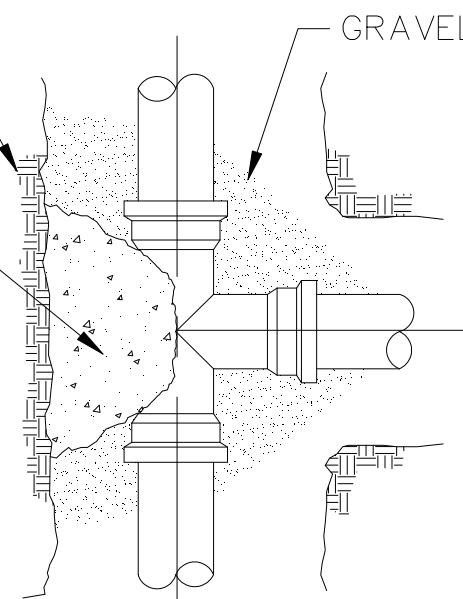
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CHECKED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
PROJECT NO.: \_\_\_\_\_  
SCALE: \_\_\_\_\_

BRUNSWICK & TOPSHAM  
WATER DISTRICT

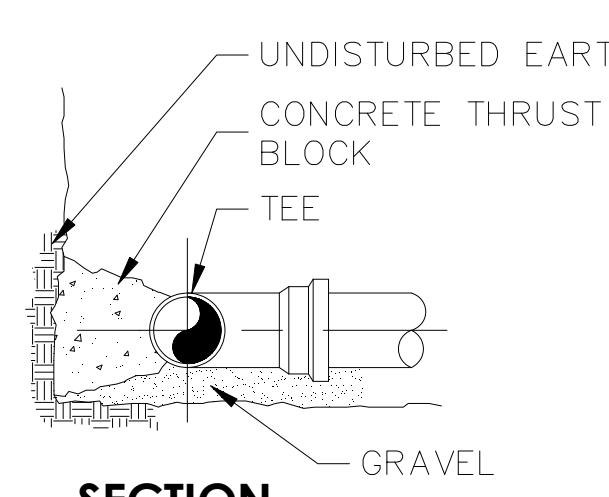
PO BOX 489  
TOPSHAM, ME 04066



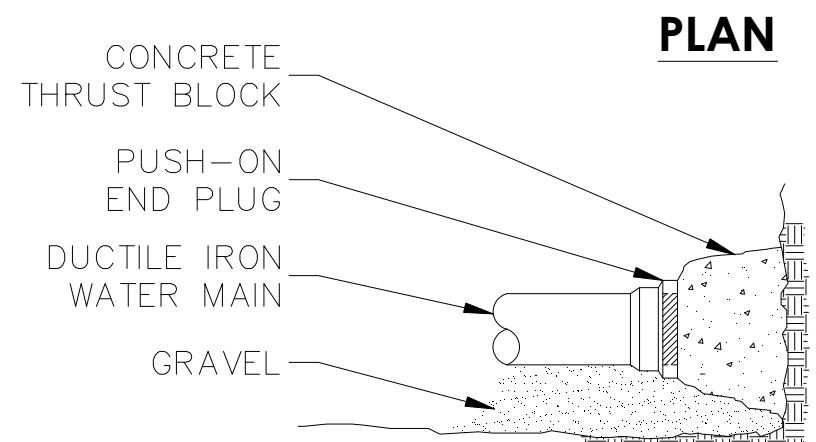
BASED ON SOIL BEARING PRESSURE OF 2000PSF AND 100PSI  
LINE PRESSURE. COMPACT COURSE TO FINE SANDS AND  
CLAYS REQUIRE ENGINEERED BLOCKS. ENGINEERED BLOCKS  
WILL TYPICALLY REQUIRE REINFORCING STEEL OF #5 AT 12".



PLAN

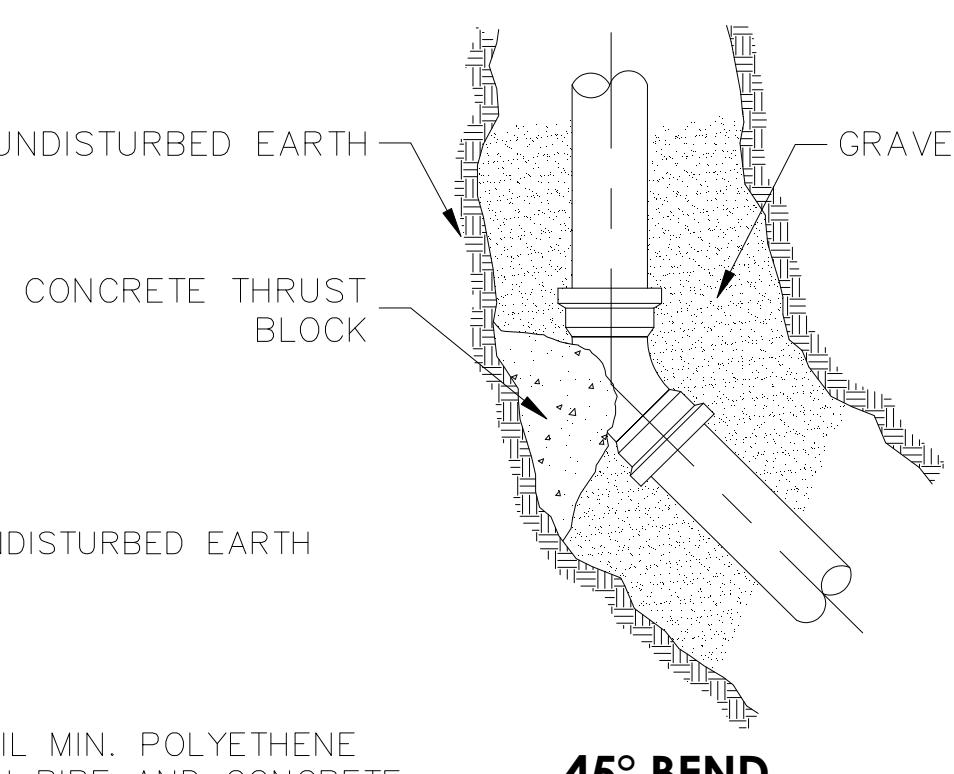


SECTION



END PLUG

NOTE: PLACE 6 MIL MIN. POLYETHENE  
SHEETING BETWEEN PIPE AND CONCRETE



45° BEND

### THRUST BLOCK DETAIL

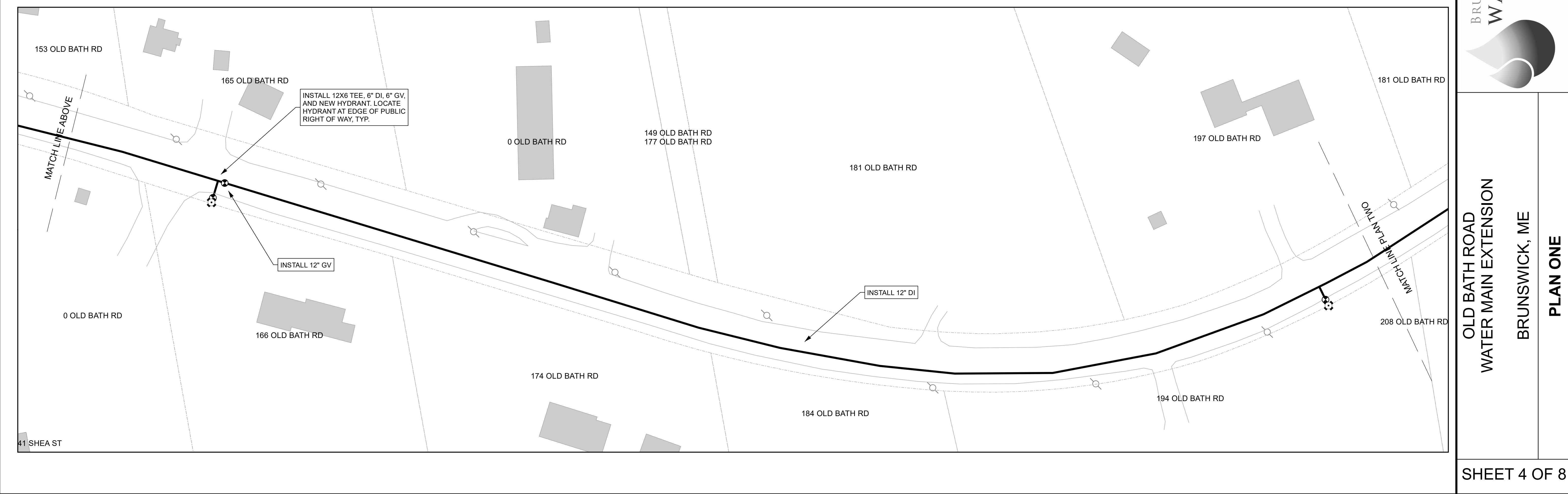
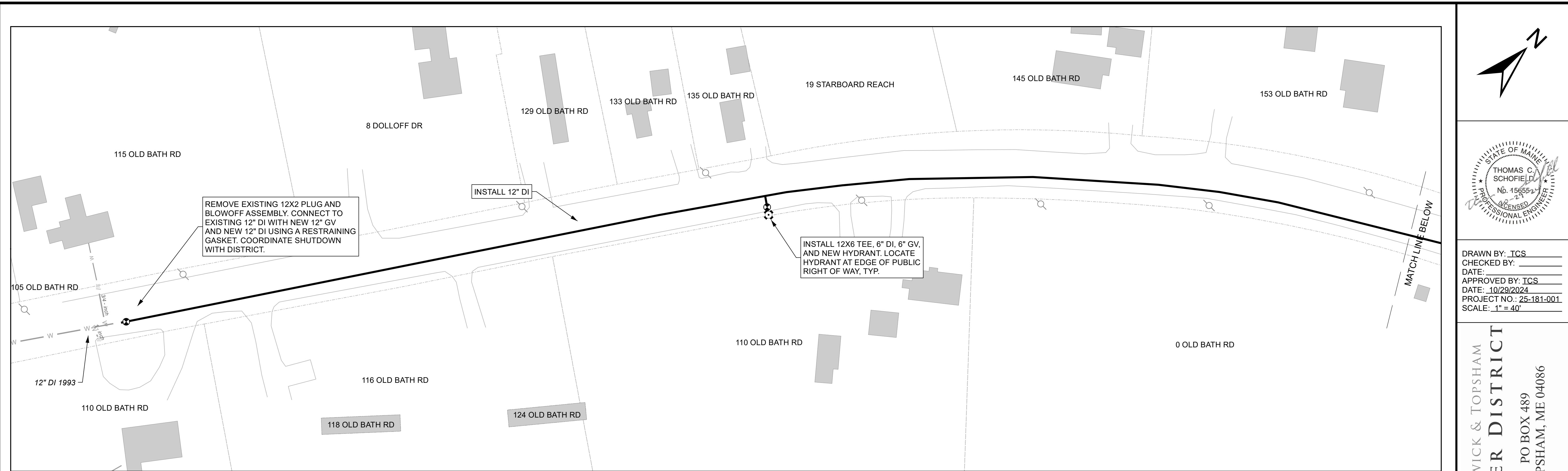
NTS

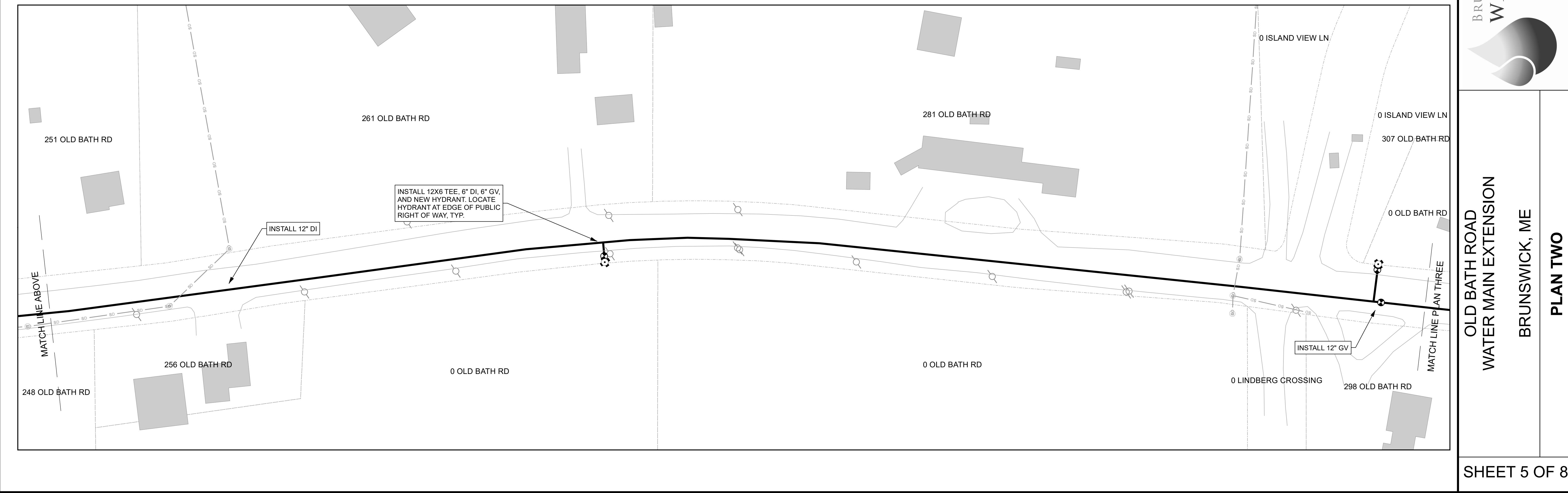
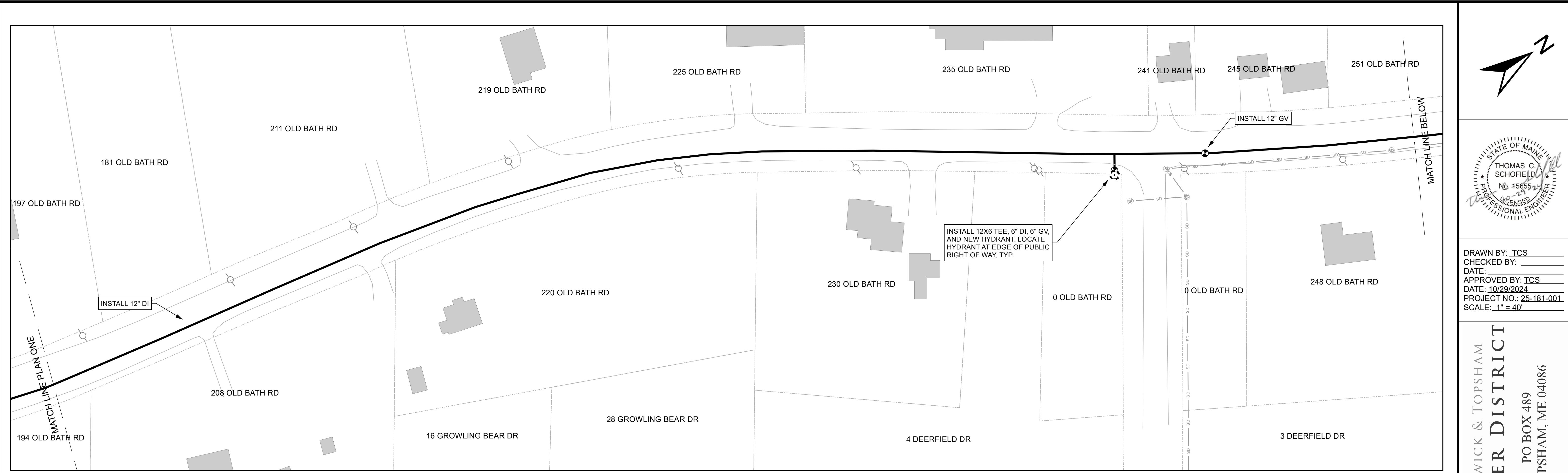
REVISED 1/28/2013

SHEET 3 OF 8

BRUNSWICK AND TOPSHAM  
WATER DISTRICT  
TOPSHAM, ME

DETAILS SHEET 2





# SHEET 5 OF 8

