

**TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET**

475 DeMott Lane, Somerset, NJ 08873-6704

**MUNICIPAL BUILDING**

Somerset, NJ 08873-6704

PURCHASING DEPARTMENT

Cindy Belanger

*Purchasing Agent, QPA, RPPO*



PHONE: (732) 873-2500 ext. 6239

Email: [Cindy.Belanger@franklinnj.gov](mailto:Cindy.Belanger@franklinnj.gov)

**NOTICE TO BIDDERS**

**NOTICE IS HEREBY GIVEN** that sealed bids will be opened and read in public by the Purchasing Agent for Township of Franklin, Somerset County, Municipal Building 475 DeMott Lane, Somerset, New Jersey, at 11:00 a.m. prevailing time on April 17, 2025 for the following:

**HARVEY J. INMAN PARK TENNIS COURT IMPROVEMENTS  
B25-016-ENG**

Bids shall be delivered in sealed envelopes and addressed to Cindy Belanger, Purchasing Agent, Purchasing Office at the Municipal Building, 475 DeMott Lane, Somerset, NJ 08873, **clearly marked on the outside with the contract name and number, bearing the name and address of the bidder on the outside.**

Drawings/plans for this bid are free of charge and **MUST** be obtained in person at the office of the Purchasing Administrator, during regular business hours 8:30 am thru 4:00pm on or after April 2, 2025. Specifications and instructions may be obtained at the Purchasing Office or can be downloaded from the website <https://www.franklintwpnj.org/>

Bidder shall submit with the bid a certified check, cashier's check or bid bond in the amount of ten percent (10%) of the total price bid, but not in excess of \$20,000, payable unconditionally to Franklin Township, along with a Certificate (Consent of Surety) with Power of Attorney for full amount of bid price from a Surety Company authorized to do business in the State of New Jersey and that said Surety will furnish a Performance and Payment Bond in amounts of 100% of successful bidder's contract.

\*All Bid Addenda and bid tabulations will be issued on the website at <https://www.franklintwpnj.org/> and processed in accordance with N.J.S.A 40A: 11-23(c). All interested respondents should check the website from now through bid opening. It is the sole responsibility of the respondent to be knowledgeable of all addenda related to this procurement.

Bidders shall comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 et seq.

Cindy Belanger, QPA, RPPO

Posted: April 2, 2025

**TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET**

**GENERAL INSTRUCTIONS**

**1. SUBMISSION OF BIDS**

- A. Sealed bids shall be received in accordance with public advertisement as required by law, a copy of said notice being attached hereto and made a part of these specifications.
- B. Each bid shall be submitted on the proposal form attached, in a sealed envelope
  - (1) addressed to the Purchasing Agent
  - (2) bearing the name and address of the bidder on the outside
  - (3) clearly marked "BID" with the name of the item(s) being bid.  
Provide One (1) Original & one (1) copy of the bid.
  - (4) The Township is storing all responses electronically; therefore submit **all pages** of the response on a CD or flash drive in addition to the printed copies.
- C. It is the bidder's responsibility to see that bids are presented to the Purchasing Agent on the hour and at the place designated. The Township disclaims any responsibility for bids forwarded by regular or express mail. If the bid is sent by express mail, the designation in B. above must also appear on the outside of the express company envelope. Bids received after the designated time and date will be returned unopened.
- D. The Township reserves the right to postpone the date for presentation and opening of bids and will give written notice of any such postponement to each prospective bidder as required by law.
- E. More than one bid from an individual, a firm or partnership, a corporation or association under the same or different names shall not be considered.

**2. BID SECURITY**

The following provisions, if indicated by an (x), shall be applicable to this bid and be made a part of the bidding documents:

A.  **BID GUARANTEE**

Bidder shall submit with the bid a certified check, cashier's check or bid bond in the amount of ten percent (10%) of the total price bid, but not in excess of \$20,000, payable unconditionally to the Township.

When submitting a Bid Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the Township.

The check or bond of the unsuccessful bidder(s) shall be returned as prescribed by law. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted.

The check or bond of the successful bidder shall be forfeited if the bidder fails to enter into a contract pursuant to statute. Failure to submit the required bid guarantee shall be cause for rejection of the bid.

B.  **CONSENT OF SURETY**

Bidder shall submit with the bid a Certificate (Consent of Surety) with Power of Attorney for full amount of bid price from a Surety Company authorized to do business in the State of New Jersey and acceptable to the Township, stating that it will provide said bidder with a Performance and Payment Bond in the full amount of the bid. This certificate shall be obtained in order to confirm that the bidder to whom the contract is awarded will furnish Performance and Payment bond from an acceptable surety company on behalf of said bidder, any or all subcontractors, or each respective subcontractor, or any combination thereof, which results in performance and payment security equal to the total amount of the contract, pursuant to statute.

Failure to submit this shall be cause for rejection of the bid.

C.  **PERFORMANCE AND PAYMENT (LABOR AND MATERIAL) BOND**

Successful bidder shall simultaneously with the delivery of the executed contract, submit an executed Performance and Payment bond in the amount of one hundred percent (100%) of the acceptable bid as security for the faithful performance of this contract and guarantee of all payments to laborers and suppliers for the labor and material used in the work performed in the contract.

D.  **MAINTENANCE BOND: REQUIRED IF CHECKED**

1. Upon acceptance of the work by the Township, the vendor shall submit a maintenance bond in the amount of ten percent 10% guaranteeing against defective quality of work or materials for the period of one (1) year.
2. The performance bond provided shall not be released until final acceptance of the whole work and then only if any items or claims have been satisfied and any maintenance bonds required have been executed and approved by the Township.
3. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey and acceptable to the Township.

3. **QUOTATIONS, BIDS AND FORMS**

- A. (1). Franklin Township, County of Somerset is exempt from any local, state or federal sales, use or excise tax. **Franklin Township will not pay service charges such as interest and late fees.**  
(2). The Township of Franklin or any of its offices and divisions will not complete credit applications as a result of contract(s) resulting from award based on these specifications.
- B. Bids must be signed in ink by the bidder, all quotations shall be made with a typewriter or pen and ink. Any quotation showing any erasure alteration must be initialed by the bidder in ink. Unit prices and totals are to be inserted in spaces provided.
- C. Failure to sign and give all information in the bid may result in the bid being rejected.
  - D. Insert prices for furnishing all of the material/or labor described. Prices shall be all inclusive (gross) including all transportation charges fully prepaid by the contractor (F.O.B. destination, freight prepaid) and placement as designated by the Township. No additional charges will be allowed for any transportation costs resulting from partial shipments made at vendors' convenience when a single shipment is ordered.
  - E. Any bidder may withdraw his bid at any time before the time set for receipt of bids. No bid may be withdrawn in the 60 day period after the bids are received, except as provided by N.J.S.A. 40A:11-23.3.
  - F. All forms shall be completed and attached to the bid proposal. *BIDDER IS ALERTED TO THE BID DOCUMENT CHECK LIST PAGE.*

4. **INTERPRETATIONS AND ADDENDA**

- A. The bidder understands and agrees that its bid is submitted on the basis of the specifications prepared by the Township. The bidder accepts the obligation to become familiar with these specifications.
- B. Bidders are expected to examine the specifications and related documents with care and observe all their requirements. Ambiguities, errors or omissions noted by bidders should be promptly reported in writing to the Purchasing Administrator. In the event the bidder fails to notify the Township of such ambiguities, errors or omissions, the bidder shall be bound by the bid.
- C. No oral interpretation of the meaning of the specifications will be made to any bidder. Every request for an interpretation shall be in writing, addressed to the Purchasing Administrator. In order to be given consideration, written requests for interpretation must be received at least ten (10) days prior to the date fixed for the opening of the bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, and will be distributed to all prospective bidders, in accordance with statute N.J.S.A. 40A:11-23 (c)(2). For all contracts for construction work, notice shall

be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender. All addenda so issued shall become part of the contract documents, and shall be acknowledged by the bidder in the bid. The Township's interpretations or corrections thereof shall be final.

- D. 1. If the amount shown in words and its equivalent figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used.
2. In the event that there is a discrepancy between the unit prices and the extended totals, the unit prices shall prevail. In the event there is an error of the summation of the extended totals, the computation by the Township of the extended totals shall govern.

## 5. **BRAND NAMES, STANDARDS OF QUALITY, PATENTS**

- A. Only manufactured and farm products of the United States, wherever available, shall be used on this contract in accordance with prevailing statutes.
- B. Brand names and/or descriptions used in this bid are to acquaint bidders with the type of commodity desired and will be used as a standard by which alternate or competitive materials offered will be judged. Competitive items must be equal to the standard described and be of the same quality of work. Variations between materials described and the materials offered are to be fully explained by the bidder on a separate sheet and submitted with the proposal form. Vendor's literature will not suffice in explaining exceptions to these specifications. In the absence of any or equivalent product request by the bidder, it will be presumed and required that materials as described in the proposal be delivered.
- C. It is the responsibility of the bidder to demonstrate the equivalency of item(s) offered. The Township reserves the right to evaluate the equivalency of a product which, in its deliberations, meets its requirements.
- D. The contractor shall hold and save harmless the Township, its officers, agents, servants, and employees, from any liability of any nature and kind for or on account of the use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention or article furnished or used in the performance of this contract.
- E. Estimated Quantities, the Township has attempted to identify the item(s) and the estimated amounts of each item bid to cover its requirements; however, past experience shows that the amount ordered may be different than that submitted for bidding. The right is reserved to decrease or increase the quantities specified in the specifications pursuant to Statute. No minimum purchase is implied or guaranteed.

## 6. **AWARD OF BID**

- A. The Township reserves the right to accept or reject any or all bids, to waive identified irregularities and technicalities, and to award in whole or in part to the lowest responsible bidder, in accordance with applicable laws. Without limiting the generality of the foregoing, any bid which is incomplete, obscure, or irregular may be rejected, any bid having erasures or corrections in the price sheet may be rejected; any bid in which unit prices are omitted, or in which unit/total prices are unbalanced, may be rejected; any bid accompanied by any insufficient or irregular certified check, cashier's check or bid bond may be rejected.
- B. The Township further reserves the right to award each branch separately to the lowest responsible bidder meeting specifications or to make an award based on the total bid to the bidder whose total sum is the low bid meeting the specifications, whichever in the awarding authorities' opinion is in the best interest of the Township. Without limiting the generality of the foregoing, the Township reserves the right to award a contract based on either option that may be described in the bid proposal or based on any combination thereof.
- C. The Township reserves the right to award equal or tie bids to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous, in accordance with N.J.S.A. 40A:11-6.1..
- D. Should the bidder, to whom the contract is awarded, fail to enter into a contract, the Township may then, at its option, accept the bid of the next lowest responsible bidder.

- E. Continuation of the terms of this contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Township reserves the right to cancel this contract.
  - F. Government entities are not private business/consumer clients; therefore, separate company agreements are not honored. Terms of the specifications/bid package prevail.
  - G. If applicable, successful bidder shall be responsible for being fully informed about the cost and for obtaining any applicable permits or licenses from any government entity that has jurisdiction to require the same. All bids submitted shall include this cost in the bid price agreement. These approvals may be from persons or government bodies other than the Township. The contractor shall be responsible for obtaining the approval and acceptance of this work by such persons, counties and similar bodies. Such work may include, but shall not be restricted to, township road opening permits, replacement of sidewalks, curbs, pavement or utilities and other incidental work required to complete the contract. Any fees associated with building permits and any associated inspection fees shall be borne by the contractor.
  - H. The successful bidder will not assign any interest in this contract and shall not transfer any interest in the same without the prior written consent of the Township. If, during the life of the contract, the contractor disposes of his/her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interests to another party, all obligations are transferred to that new party. In this event, the new owner(s) will be required to submit all documentation/legal instruments that were required in the original bid/contract. Any change shall be approved by the Township.
  - I. The successful bidder will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of the Township.
  - J. If the award is to be made on the basis of a base bid only, it shall be made to that responsible bidder whose base bid is the lowest.
  - K. If the award is to be made on the basis of a combination of a base bid with selected options, it shall be made to that responsible bidder whose net bid on such combination is the lowest.
  - L. Comparison of bids will be made on the basis of the relative amount of the respective base bids, as corrected for any errors, together with the adoption of any alternative items deemed advantageous to the Township or necessary to maintain the cost of the work within the funds available. The Township reserves the right to select the size and type of construction deemed by it to be the most advantageous and to its best interest.
- M. **P.L. 2021, c. 301 requires a contractor submitting the lowest bid for a contract that is subject to the Prevailing Wage Act, if that bid is 10 percent or more lower than the next lowest bid, to certify to the public body that the prevailing wage rates required by the Act shall be paid. If the bidder does not provide the certification prior to the award of the contract, the public body shall award the contract to the next lowest responsible and responsive bidder.**
7.  **NEW JERSEY PREVAILING WAGE ACT (When Applicable)**  
Pursuant to N.J.S.A. 34:11-56.25 et seq., contractors on projects for public work shall adhere to all requirements of the New Jersey Prevailing Wage Act. The contractor shall be required to submit a certified payroll record to the owner **within ten (10) days of the payment of the wages**. The contractor is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned time period. The contractor shall submit said certified payrolls in the form set forth in N.J.A.C. 12:60-6.1(c). It is the contractor's responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the New Jersey Department of Labor and Workforce Development, Division of Workplace Standards. Additional information is available at [http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing\\_wage\\_determinations.html](http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html).
- a. The Wage Rates for the trade/locality of the project will be included by the Township in the final executed contract;
  - b. Workers cannot be employed at less than the prevailing wage rates; and,
  - c. If the Employer pays less than the prevailing wage rates, the Township may, in addition to any other remedies, terminate the work.

8.  **THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT**

N.J.S.A. 34 :11-56.48 et seq. requires that a general or prime contractor and any listed subcontractors named in the contractor's bid proposal shall possess a certificate at the time the bid proposal is submitted. After bid proposals are received and prior to award of contract, the successful contractor shall submit a copy of the contractor's certification along with those of all listed subcontractors. All non-listed subcontractors and lower tier sub-subcontractors shall be registered prior to starting work on the project. It is the general contractor's responsibility that all non-listed sub-contractors at any tier have their certificate prior to starting work on the job.

Under the law a "contractor" is "a person, partnership, association, joint stock company, trust, corporation or other legal business entity or successor thereof who enters into a contract" which is subject to the provisions of the New Jersey Prevailing Wage Act (N.J.S.A. 34 :11-56.25, et seq.) It applies to contractors based in New Jersey or in another state.

The law defines "public works projects" as contracts for "public work" as defined in the Prevailing Wage statute (N.J.S.A. 34 :11-56.25(5)). The term means:

- "Construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program.
- "Public work" shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds... "
- "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. While "maintenance" includes painting and decorating and is covered under the law, it does not include work such as routine landscape maintenance or janitorial services.

To register, a contractor must provide the State Department of Labor with a full and accurately completed application form. The form is available online at [www.state.nj.us/labor/lssc/lspubcon.html](http://www.state.nj.us/labor/lssc/lspubcon.html). N.J.S.A. 34:11-56.55 specifically prohibits accepting applications for registration as a substitute for a certificate or registration.

## 9. **NON-COLLUSION AFFIDAVIT**

The Non-Collusion Affidavit, which is part of these specifications, shall be properly executed and submitted intact with the proposal.

## 10. **NON-DISCRIMINATION**

There shall be no discrimination against any employee engaged in the work required to produce the commodities covered by any contract resulting from this bid, or against any applicant to such employment because of race, religion, sex, national origin, creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality. This provision shall include, but not be limited to the following: employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this bid.

## 11. **MANDATORY EEO/AFFIRMATIVE ACTION EVIDENCE**

NO FIRM MAY BE ISSUED A CONTRACT UNLESS THEY COMPLY WITH THE EEO/AFFIRMATIVE ACTION REGULATIONS OF P.L. 1975, c. 127, AS AMENDED FROM TIME TO TIME, AND THE AMERICANS WITH DISABILITIES ACT.

### **A. Procurement, Professional and Service Contracts**

All successful vendors must submit prior to an award of the contract one of the following:

- (1) A photocopy of their Federal Letter of Affirmative Action Plan Approval, or
- (2) A photocopy of their State Certificate of Employee Information Report, or
- (3) A photocopy of completed Affirmative Action Employee Information Report:  
AA302- Available on-line at [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)

### **B. Construction Contracts**

All successful contractors must submit prior to signing of the contracts an Initial Project Manning Report (AA201-available on-line at [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)) for any contract award that meets or exceeds the bidding threshold.

**12. WORKER AND COMMUNITY RIGHT TO KNOW ACT**

The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with the N.J. Worker and Community Right to Know Law (N.J.S.A. 34: 51 et seq., and N.J.A.C 5:89-5 et seq.,). Containers that the law and rules require to be labeled shall show the Chemical Abstracts Service number of all the components and the chemical name. Further, all applicable Material Safety Data Sheets (MSDS) aka hazardous substance fact Sheet, must be furnished.

**13. STATEMENT OF OWNERSHIP**

In accordance with N.J.S.A. 52:25-24.2, no corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, Subchapter S corporation or sole proprietorship, shall be awarded a contract, unless prior to the receipt of the bid or accompanying the bid of the corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, subchapter S corporation or sole proprietorship, there is submitted to the Township a statement setting forth the names and addresses of all stockholders who own 10% or more of the stock, of any class, or of all individual partners or members who own a 10% or greater interest in the corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, Subchapter S corporation or sole proprietorship. If one or more such interestholders is itself a corporation or partnership or limited liability company, the interestholders holding 10% or more of that entity's stock, partnership, or other form of interest, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every individual interestholder exceeding the 10% ownership criteria established in this act has been listed. This form shall be signed and submitted with the bid/proposal whether or not any interestholder(s) owns more than 10% of the business submitting the bid. Failure to comply requires mandatory rejection of the bid/proposal.

**14. ACQUISITION, MERGE, SALE AND/OR TRANSFER OF BUSINESS, ETC.**

It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new owner(s) will be required to submit, when required, a performance bond in the amount of the open balance of the contract. Any transfer of contracts must be submitted in writing and approved by Franklin Township.

**15-18 Reserved for Future Use**

**19. ADDITIONS/DELETIONS OF SERVICE:**

The Township reserves the right to add and/or delete services to this contract, in accordance with applicable laws including, but not limited to, N.J.A.C. 5:30-113. Should a service requirement be deleted, payment to the Contractor will be reduced proportionally to the amount of service deleted in accordance with the bid price. Should additional services be required, payment to the Contractor will be increased proportionally to the amount of service added in accordance with the bid price.

**20.** Vendor's literature and/or pricing sheets will not be accepted in lieu of completing the proposal blank(s) set forth in these specifications.

**21. ALTERING OFFICIAL DOCUMENT**

Bidders shall not write in margins or alter the official content or requirements of the Township bid documents.

**22. SPECIFICATIONS**

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of contract.

**23. OWNERSHIP OF MATERIAL**

The owner shall retain all of its rights and interest in any and all documents and property both hard copy and digital furnished by the owner to the contractor for the purpose of assisting the contractor in the performance of this contract. All such items shall be returned immediately to the owner at the expiration or termination of the contract or completion of any related services, pursuant thereto, whichever comes first. None of the documents and/or property shall, without the written consent of the owner, be disclosed to others or used by the contractor or permitted by the contractor to be used by their parties at any time except in the performance of the resulting contract.

Ownership of all data, materials and documentation originated and prepared for the owner pursuant to this contract shall belong exclusively to the owner. All data, reports, computerized information, programs and materials related to this project shall be delivered to and become the property of the owner upon completion of the project. The contractor shall not have the right to use, sell, or disclose the total of the interim or final work products, or make available to third parties, without the prior written consent of the owner. All information supplied to the owner may be required to be supplied on CD-ROM media compatible with the owner's computer operating system, windows based, Microsoft Office Suite 2000.

**24. AMENDMENTS TO N.J.S.A. 2C: 21-33 et. seq. "TRUTH IN CONTRACTING"**

Provisions of law govern false claims and representation. It is a serious crime for the vendor to knowingly submit a false claim and/or knowingly make material misrepresentation. There are enhanced penalties for areas of false claims, bid rigging and bribery, gratuities and gifts; and conflict of interest. Please consult the statute for further information.

**25. N.J. BUSINESS REGISTRATION PROGRAM**

Pursuant to N.J.S.A. 52:32-44, Franklin Township Somerset NJ ("Contracting Agency") is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury at the time of contract award.

**26. "PAY TO PLAY" – NOTICE OF DISCLOSURE REQUIREMENT – P.L. 2005, Chapter 271, Section 3 Reporting (N.J.S.A. 19:44A – 20.27)**

1. Any business entity that has received \$50,000 or more in contracts from government entities in a calendar year is required to file an annual disclosure report with ELEC. The instructions and form are available on the ELEC website.
2. Annual Disclosures require submission by March 30<sup>th</sup> of each year covering contracts and contributions for the prior calendar year.
3. At a minimum, a list of all business entities that file an annual disclosure report will be listed on ELEC's website at [www.elec.state.nj.us](http://www.elec.state.nj.us).
4. If you have any questions please contact ELEC at: 1-888-313-ELEC (3532) (toll free in NJ) or 609-292-8700

**27. NON-ALLOCATION OF FUNDING TERMINATION**

Each fiscal year payment obligation of the Owner is conditioned upon the availability of Owner funds appropriated or allocated for the payment of such an obligation. If funds are not allocated and available for the continuance of any services performed by the Contractor hereunder, whether in whole or in part, the Owner at the end of any particular fiscal year may terminate such services. The Owner will notify the Contractor in writing immediately of any services that will be affected by a shortage of appropriated funds. This provision shall not be construed so as to permit the Owner to terminate this Agreement during the term, or any service hereunder, merely in order to acquire identical services from a third party contractor.

**28. FORCE MAJEURE**

Neither party shall be responsible for any resulting loss or obligation to fulfill duties as specified in any of the terms or provisions of this Agreement if the fulfillment of any term or provision of this Agreement is delayed or prevented by any revolutions, insurrections, riots, wars, acts of enemies, national emergencies, strikes, floods, fires, acts of God, or by any cause not within the control of the party whose performance is interfered with which by the exercise of reasonable diligence such party is unable to prevent. Additionally, if the fulfillment of any of the terms and provisions of this Agreement is delayed or prevented by any court order, or action or injunction or other such agreement, this Agreement shall become voidable by the Franklin Township by notice to each party.

**29.** The Township and the Contractor each bind themselves and their successors, executors, administrators, heirs and assigns and legal representatives of the other party respecting all covenants and agreements and obligations of this contract.

30. The terms of this Agreement shall be construed and interpreted, and all respective rights and duties of the parties shall be governed by the laws of the State of New Jersey.

31. **NON-PAYMENT OF PENALTIES AND INTEREST ON OVERDUE BILLS**

Public funds may be used to pay only for goods delivered or services rendered. Franklin Township will not pay penalties and/or interest on overdue bills. No employee is authorized to sign a letter of credit or any other document that represents a legal commitment on the part of the Township to pay additional fees.

32. **FIRM FIXED CONTRACT**

This is a firm fixed contract, prices firm, FOB Township locations. No price escalation. The vendor shall void the contract and permit the Township to solicit open market pricing should any price increase or surcharge be imposed.

33. **W-9**

Successful bidder/respondent shall complete W-9 Form and submit to Purchasing prior to contract award. The form is available at the following link: [www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf)

34. **Future use**

35. **PUBLIC EMERGENCY**

In the event of a Public Emergency declared at the Local, State or Federal Level, if the Township opts to extend terms and conditions of this bid, the contractor agrees to extend the terms and conditions of this bid, whether existing, expiring or expired no longer than six months, for goods and/or services for the duration of the emergency. In the event the original contractor cannot meet this requirement, the Township may solicit the goods and/or services from any bidder on this contract.

36. **SOURCE OF SPECIFICATIONS/BID PACKAGES**

Drawings/plans for this bid are free of charge, they **MUST** be obtained in person at the office of the Purchasing Administrator, during regular business hours 8:30 am thru 4:00pm Monday thru Friday. Specifications and instructions may be obtained at the Purchasing Office or can be downloaded from the website <https://www.franklintwpnj.org/>

All addenda are posted on the website site. Potential bidders are cautioned that they are bidding at their own risk if a third party supplied the specifications that may or may not be complete. The Township is not responsible for third party supplied specifications.

37. **EMPLOYEE WAGE REPORTING:**

The contractor and any subcontractor thereof engaged under a contract pursuant to this specification is subject to and shall comply with the provisions of N.J.S.A. 34:11-68 with respect to record keeping of all individuals engaged in the collection or transportation of solid waste or recyclable material, excluding recycled or reclaimed asphalt or concrete, collected under this contract.

By entering into a contract, the contractor acknowledges the provisions of N.J.S.A. 34:11-68 with regard to the authority of the Commissioner of the Department of Labor and Workforce Development to investigate the contractor or subcontractor's wages and any penalties that may result from failure to comply.

38. **CONTRACT PERIOD:**

- A. The contract shall be in effect until all the terms of the specifications are met. The contractor shall carry on the work regularly and without interruption at a rate to insure full completion of the base bid contract, 90 days from Notice to Proceed.
- B. In any event, the Township reserves the right to cancel the contract with 30-day notification to the vendor.
- C. If, through any cause, the successful bidder shall fail to fulfill in a timely and proper manner obligations under this contract, or if the contractor shall violate any of the requirements of this contract, the Township shall thereupon have the

right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date of termination. Such termination shall relieve the Township of any obligation for balances to the contractor for work not yet completed or approved by the Township.

- D. Notwithstanding the above, the contractor shall not be relieved of liability to the Township for damages sustained by the Township by virtue of any breach of the contract by the contractor and the Township may withhold any payments to the contractor for the purpose of compensation until such time as the exact amount of the damage due the Township from the contractor is determined.
- E. The contractor agrees to indemnify and hold the Township harmless from any liability to subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the Township under this provision.
- F. In case of default by the successful bidder, the Township may procure the services from other sources and hold the successful bidder responsible for any excess costs occurred.
- G. Continuation of the terms of this contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Township reserves the right to cancel this contract.

**39. DELIVERY AND INSPECTION:**

- A. Bidders shall guarantee delivery of materials in accordance with the delivery schedule provided in the specifications and/or bid proposal form.
- B. All materials, equipment, supplies and/or services delivered to or performed for the Township shall be inspected upon delivery to insure compliance with specifications. Items which are not in accordance with the specifications will be rejected.
- C. The successful bidder shall guarantee any and all materials and services supplied under these specifications. Defective or interior materials shall be replaced at the expense of the contractor. In case of rejected materials, the contractor will be responsible for return freight or removal from the site and proper disposal.

**40. PAYMENTS**

- A. All payments will be processed in accordance with the Prompt Payment Act NJSA 2A:30A-1 et seq. and the Public Works payment requirements of 40A:11-16-2, 16.3 and 16.4. The bidder must provide an itemized invoice and signed Purchase Order/Voucher. The Voucher will be certified correct by the Department Head who receives the material or service. Payment will only be made following the approval of the Township Council. The Township Council meets and approves warrants on the second and fourth Tuesday of each month, except July, August and December, when they meet only on the 2<sup>nd</sup> Tuesday of the month. Payment vouchers and invoices must reach the Department for review no later than three weeks before the Township Council meeting in order for payment to be on the agenda for approval. Once approved by Council, payment is made within five days.
- B. Acceptance of the final payment by the bidder shall be considered as a release in full of all claims against the Township of Franklin, Somerset County.
- C. Partial and Final Payments:

If the work progresses according to this contract, the contractor will be paid 98 percent (98%) of the work completed during the preceding month.

Upon completion of the work and acceptance by the Township, contractor will receive full final payment, including the 2 percent (2%) retainage held during the project.

All retainage shall be processed in accordance with NJSA 40A:11-16.1.

- D. Township of Franklin will not pay penalties, interest, or late fees. No employee is authorized to sign a letter or credit of any other document that represents a legal commitment on the part of the Township to pay additional fees.

## 41. **INSURANCE & INDEMNIFICATION**

### A. **INDEMNIFICATION**

If it becomes necessary for the bidder to enter upon the premises or property of the Township, or any other property not owned by the Township but where the bidder is acting as an agent for the township, to construct, erect, inspect, make delivery or remove property hereunder, the Contractor covenants and agrees to take, use, provide and make all proper, necessary and sufficient precautions, safeguards and protection against any accidents, injuries or damages. This includes land, and adjacent or nearby areas where incidental operations are performed including areas off the project site used for the purpose of storing materials, and excluding permanent locations of any insured party.

The obligation to indemnify and hold the Township of Franklin harmless under this Agreement shall extend to any negligent acts or omissions of the Contractor, its agents, employees, any of its Subcontractors, their agents, employees, anyone directly or indirectly employed by the Contractor or its Subcontractors, or anyone for whose acts they may be held liable. This obligation shall not limit, negate, diminish or otherwise reduce any other rights or obligations that may exist as to a party or person as described under this section.

In any claim by an employee of the Contractor, the Contractor's Subcontractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, that may be made against the Township of Franklin or any person or entity indemnified under this Agreement, the indemnification obligation shall not be reduced or limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor, or its Subcontractors, under any laws, regulations or acts regarding workers compensation, disability benefits or any other employee benefits.

### B. **INSURANCE**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors. A Certificate of Insurance shall be filed with the Township of Franklin prior to commencement of the work.

### C. **MINIMUM SCOPE AND LIMIT OF INSURANCE**

1. **Commercial General Liability (CGL):** Coverage for all operations including, but not limited to, contractual, products and completed operations, and personal injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Coverage for all owned, non-owned and hired vehicles with limits not less than \$1,000,000 per occurrence, combined single limits (CSL) or its equivalent.
3. **Workers Compensation:** As required by the State of New Jersey and Employers Liability with limits not less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability** (if design/build): Coverage with limits not less than \$1,000,000 per occurrence or claim,

\$2,000,000 aggregate.

5. **Contractor's Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors & Omissions** (if project involves environmental hazards): Coverage with limits no less than \$1,000,000 per occurrence or claim/\$2,000,000 aggregate.
6. **Builders Risk** (for major renovations): During the course of construction utilizing an "All Risk" coverage form with limits equal to the completed value of the project and no coinsurance penalty provisions. The Township of Franklin shall be named as Loss Payee as their interest may appear.

**D. OTHER INSURANCE PROVISIONS**

- The Township of Franklin, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor.
- For any claims related to this project, the Contractor's insurance coverage shall be primary insurance coverage as respects the Township of Franklin, its officers, officials, employees, and volunteers.
- Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Township of Franklin.
- Any combination of primary and umbrella/excess policies may be used to satisfy the limits.
- Acceptability of Insurers - Insurance is to be placed with insurers authorized to conduct business in the State of New Jersey with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the Township of Franklin.
- Subcontractors - Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that the Township of Franklin is an additional insured on insurance required from subcontractors.
- Policies shall remain in force until all work has been completed and until all maintenance bonds have been released.
- Special Risks or Circumstances: The Township of Franklin reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

**42. SUBCONTRACTORS: (Failure to submit shall result in rejection of bid.)**

Bidders must submit names of subcontractors for the specialty trade categories shown below. Prospective prime contractor's failure to identify in its bid the particular subcontractors with whom it would deal will be cause for rejection of bid. These include:

- Plumbing and gas fitting
- Heating and air conditioning
- Electric
- Structural steel

**43. CHANGE ORDERS:**

- A. New or unforeseen work will be determined by the Township's representative as that work which is substantially different from that on which the contractor bid. Should the contractor encounter conditions materially different from those indicated by the specifications or materially different from conditions generally recognized as inherent in the kind of work being performed, the Township shall be immediately notified. If the Township is in agreement with the contractor, a Change Order will be issued for an appropriate adjustment in contract time and cost.
- B. If a mutually-satisfactory price can be agreed upon, the contractor shall proceed with the work without undue

delay and payment shall be made as outlined below.

- C. A Change Order authorizing any such work will be issued by the Township. The Township may refuse to compensate the contractor for any work performed which is not covered by the proposal or a Change Order.

**44. ALTERNATE DISPUTE RESOLUTION:**

- A. If a dispute between the Township and the Contractor arises during the course of the contract, the parties will attempt to resolve the dispute, in good faith, through non-binding mediation.
- B. Either party may demand such mediation by providing written notice to the other party. The written notice shall contain: (1) a detailed statement of the nature of the dispute, including all pertinent information and documentation; and (b) the name, address, and telephone number of that party's present designated representative for the purposes of mediation. Any demand for mediation shall be delivered within three calendar days after the event or dispute in question arises. The other parties shall designate its representative for mediation, in writing, no later than five business days after the receipt of the demand for medication. The respective designees shall thereupon, and promptly, with due regard for the need for timely action, choose a mediator. If the parties cannot agree on a mediator, or if they prefer, they shall choose a reputable mediation firm. Any mediation firm so chosen shall present a list of at least five proposed mediators to the parties, and shall provide the parties with a summary of each person's qualifications to serve as the mediator. Each party shall rank the proposed mediators in order of preference. The fifth and any lower ranked person on each list will be excluded from further consideration. The chosen mediator shall be the remaining person who is the combined highest ranking mediator on both preference lists, after deleting all excluded persons. In the event of a tie, the mediator shall be chosen by lot.
- C. The parties will not be bound by the Rules of Evidence in presenting their positions before the mediator.
- D. The mediation shall be conducted in such reasonable and efficient manner as may be agreed between the parties, and the mediator, or, in the lack of such an agreement, as may be determined by the mediator.
- E. Each party will bear its own costs of participation in mediation, and they will divide the cost of the mediator equally.
- F. If, after a good faith effort to resolve the dispute through mediation, the dispute is not resolved, either party may terminate the mediation by written notice to the mediator and to the other party, whereupon either party may submit the dispute to the Superior Court of New Jersey, Somerset County, for adjudication, which Court shall be exclusive original jurisdiction over the dispute.

**45. TIME OF BEGINNING, COMPLETION AND DAMAGES FOR NON-COMPLETION:**

- A. The contractor shall carry on the work regularly and uninterruptedly at a rate to insure full completion of the entire contract.
- B. If the contractor has finished the work after the above period of full completion, there may be deducted from the contract price and retained by the Township an amount to cover the actual cost paid by the Township for any inspection or construction-related engineering services related to the work for the number of days in excess of the completion time above mentioned.
- C. In addition to the actual cost of observation and engineering services, the Township shall have full authority to and may deduct and retain from the payments to the contractor the sum of \$500.00 for each day any portion of the work (exclusive of minor punch list items which have no substantial impact upon the usability or performance of the contract) remains uncompleted beyond the time limit noted above. This sum will be retained as liquidated damages

due to the extreme difficulty of estimating the actual costs which would be suffered by the Township as a result of late completion and does not represent a penalty for late completion.

- D. Extension of time may be granted by the Township by reason of unusual difficulty or for other cause deemed by the Township to be good and sufficient, provided that requests for extension be accompanied by the approval, in writing, the Surety Company appearing as such on the bonds furnished by the contractor in accordance with this contract.

**46. FEDERAL HOUSING AND COMMUNITY DEVELOPMENT REQUIREMENTS: APPLICABLE IF CHECKED**

- A. Bidders should be aware that Federal Housing and Community Development funds are being provided for this project, and compliance with all HUD-mandates are required. It is the bidder's responsibility to read, understand and pay close attention to all documentation included in this bid package to ensure that all local and state requirements are understood and met at the time of bid proposal and in completion of the contract.

**47. TRAFFIC CONTROL (if Applicable):**

- A. The contractor is responsible for traffic control and all costs associated to insure the safety of the public and workers during the entire construction period. This includes purchasing and erecting, where needed, all traffic control devices, including, but not limited to signs, traffic cones and barricades. Contractor will be responsible to coordinate with Traffic Safety Bureau, Franklin Township Police Department to schedule Traffic Control Directors and approve detour plan and or Traffic Control plan for road closings. Township work hours shall be adhered to for all roads within the project (9:00am-3:30pm). Traffic cones and traffic signs are to be new and MUTCD Compliant and shall remain as property of Franklin Township.

Basis of Payment:  
are a predetermined amount.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Traffic cones	EA

- B. Cones or barrels shall be used around manholes and inlets when such structures are in a milled area or are raised before the surface course is placed. Manholes shall also be ramped immediately with base course asphalt for further protection.
- C. Payment for barricades and signs are to be included in the aforementioned bid items. Directors are a predetermined amount.
- D. Depending on the roads where the work is being done, contractor may have to hire police officers to supervise the traffic control during construction. If required, there is an established allowance in the proposal pages based on the best estimates available for this job and the roadways that will be affected during construction. If there is an allowance in the bid proposal pages, all bidders shall include this amount when figuring their bid.
- E. The use of Police Traffic Directors will be discussed at the pre-construction meeting with the RE, Contractor, and local Traffic Safety Officer present. The Contractor will take the lead in scheduling police traffic directors with the approval of the RE.
- F. Any road resurfacing will require temporary traffic markings on the road. Markings shall be placed after milling and paving operations, payment for this will be under the aforementioned bid item.

## **POLICE OFFICERS— (IF APPLICABLE)**

- G. Depending on the roads where the work is being done, contractor may have to hire police officers to supervise the traffic control during construction. If required, there is an established allowance in the proposal pages based on the best estimates available for this job and the roadways that will be affected during construction. If there is an allowance in the bid proposal pages, all bidders shall include this amount when figuring their bid.
- H. The allowance is only an estimate and the contractor awarded the contract shall be obligated to pay for the actual costs, either lower or higher than the estimate. The current payment for on-site police coverage is **\$83.00** per officer per hour. This covers the cost for the officer, vehicle, equipment and administrative costs. It does not, however, cover costs of any required signage as noted in the specifications.

### **48. WORK HOURS:**

- A. All construction work hours will be governed by Franklin Township ordinance chapter 226- 32 for work on, under and/or above a public right of way and by Franklin Township ordinance chapter 167 for work outside the public right of way. The codes can be found on the Township website, [www.fraklintwpnj.org](http://www.fraklintwpnj.org) and <http://www.ecode360.com/ecode3-back/getSimple.jsp?quid=FR0703>

### **49. WITHDRAWAL OF BID (N.J.S.A. 40A:11-23.3)**

- A. N.J.S.A. 40A:11-23.3 authorizes a bidder to request withdrawal of a public works bid due to a mistake on the part of the bidder. A mistake is defined by N.J.S.A. 40A:11-2(42) as a clerical error that is an unintentional and substantial computational error or an unintentional omission of a substantial quantity of labor, material, or both, from the final bid computation.
- B. A bidder claiming a mistake under N.J.S.A. 40A:11-23.3 must submit a request for withdrawal, in writing, by certified or registered mail to (name and title of the local official at the complete address to which the bid was submitted.) The bidder must request withdrawal of a bid due to a mistake, as defined by the law, within five business days after the receipt and opening of the bids. Since the bid withdrawal request shall be effective as of the postmark of the certified or registered mailing, (the name and title of the local official) may contact all bidders, after bids are opened, to ascertain if any bidders wish to, or already have exercised a request to withdraw their bid pursuant to N.J.S.A. 40A:11-23.3.
- C. A bidder's request to withdraw the bid shall contain evidence, including any pertinent documents, demonstrating that a mistake was made. Such documents and relevant written information shall be reviewed and evaluated by the public owner's designated staff pursuant to the statutory criteria of N.J.S.A. 40A:11-23.3.
- D. The public owner will not consider any written request for a bid withdrawal for a mistake, as defined by N.J.S.A. 40A:11-2(42), by a bidder in the preparation of a bid proposal unless the postmark of the certified or registered mailing is within the five business days following the opening of bids.

### **50. IRAN EMBARGO**

- A. New Jersey P.L. 2012, c. 25 prohibits State and local public contracts with persons or entities engaging in contracts with persons or entities engaging in certain investment activities in energy or finance sectors of Iran.

- B. Bidders should complete and submit with their bid the Disclosure of Investments in Iran certificate which is enclosed in the bid package.

## **51. DIFFERING SITE CONDITIONS.**

In the event that the contractor encounters differing site conditions or changed conditions on the contract site, then the following provisions shall apply:

- (1) If the contractor encounters differing site conditions during the progress of the work of the contract, the contractor shall promptly notify the Township in writing of the specific differing site conditions encountered before the site is further disturbed and before any additional work is performed in the impacted area.
- (2) Upon receipt of a differing site conditions notice in accordance with paragraph (1) above, or upon the Township otherwise learning of differing site conditions, the Township shall promptly undertake an investigation to determine whether differing site conditions are present.
- (3) If the Township determines differing site conditions that may result in additional costs or delays to exist, the Township shall provide prompt written notice to the contractor containing directions on how to proceed.
- (4) The Township agrees that it shall make an equitable adjustment to the contract price and the contract completion date for increased costs and delays resulting from the agreed upon differing site conditions encountered by the contractor.
- (5) If both the contractor and the Township agree that the Township's investigation and directions decrease the contractor's costs or time of performance, the Township shall be entitled to a fair and equitable downward adjustment of the contract price or time of performance.
- (6) If the Township determines that there are no differing site conditions present that would result in additional costs or delays, the Township shall so advise the contractor, in writing, and the contractor shall resume performance of the contract, and shall be entitled to pursue a differing site conditions claim against the Township for additional compensation or time attributable to the alleged differing site conditions.
- (7) The execution of the contract between the Township and the contractor shall constitute a representation that the contractor has visited the site and has become generally familiar with the local conditions under which the work is to be performed.
- (8) Differing site conditions shall mean physical conditions at the contract work site that are subsurface or otherwise concealed and which differ materially from those indicated in the contract documents, or are of such an unusual nature that the conditions differ materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the contract.

## **SUSPENSION OF WORK.**

- (1) The Township agrees to provide written notice to the contractor in advance of any suspension of work lasting more than ten (10) calendar days of the performance of all or any portion of the work of the contract.
- (2) If the performance of all or any portion of the work of the contract is suspended by the Township for more than ten (10) calendar days due to no fault of the contractor or as a consequence of an occurrence beyond the

Township's control, the contractor shall be entitled to compensation for any resultant delay to the project completion or additional contractor expenses, and to an extension of time, provided that, to the extent feasible, the contractor, within ten (10) calendar days following the conclusion of the suspension, notifies the Township, in writing, of the nature and extent of the suspension of work. The notice shall include available supporting information, which information may thereafter be supplemented by the contractor as needed and as may be reasonably requested by the Township. Whenever a work suspension exceeds sixty (60) days, upon seven (7) days' written notice, either party to this agreement shall have the option to terminate the contract for cause and to be fairly and equitably compensated therefor.

- (3) Upon receipt of the contractor's suspension of work notice in accordance with paragraph (2) of this section, the Township shall promptly evaluate the contractor's notice and promptly advise the contractor of its determination on how to proceed in writing.
- (4) (a) If the Township determines that the contractor is entitled to additional compensation or time, the Township shall make a fair and equitable upward adjustment to the contract price and contract completion date.  
  
(b) If the Township determines that the contractor is not entitled to additional compensation or time, the contractor shall proceed with the performance of the contract work, and shall be entitled to pursue a suspension of work claim against the Township for additional compensation or time attributable to the suspension.
- (5) Failure of the contractor to provide timely notice of a suspension of work shall result in a waiver of a claim if the Township can prove by clear and convincing evidence that the lack of notice or delayed notice by the contractor actually prejudiced the Township's ability to adequately investigate and defend against the claim.

#### **CHANGE IN CHARACTER OF WORK PROVISIONS.**

- (1) If the contractor believes that a change directive by the Township results in a material change to the contract work, the contractor shall so notify the Township in writing. The contractor shall continue to perform all work on the project that is not the subject of the notice.
- (2) Upon receipt of the contractor's change in character notice in accordance with paragraph (1) above, the Township shall promptly evaluate the contractor's notice and promptly advise the contractor of its determination on how to proceed in writing.
- (3) (a) If the Township determines that a change to the contractor's work caused or directed by the Township materially changes the character of any aspect of the contract work, the Township shall make a fair and equitable upward adjustment to the contract price and contract completion date. The basis for any such price adjustment shall be the difference between the cost of performance of the work as planned at the time of contracting and the actual cost of such work as a result of its change in character, or as otherwise mutually agreed upon by the contractor and the Township prior to the contractor performing the subject work.  
  
(b) If the Township determines that the contractor is not entitled to additional compensation or time, the contractor shall continue the performance of all contract work, and shall be entitled to pursue a claim against the Township for additional compensation or time attributable to the alleged material change.
- (4) As used in this section, "material change" means a character change which increases or decreases the contractor's cost of performing the work, increases or decreases the amount of time by which the contractor completes the work in relation to the contractually required completion date, or both.
- (5) (a) The Township may increase or decrease the quantity of work to be performed by the contractor.

(b) (1) If the quantity of a pay item is cumulatively increased or decreased by 20 percent or less from the bid proposal quantity, the quantity change shall be considered a minor change in quantity.

(2) If the quantity of a pay item is increased or decreased by more than 20 percent from the bid proposal quantity, the quantity change shall be considered a major change in quantity.

(3) For any minor change in quantity, the Township shall make payment for the quantity of the pay item performed at the bid price for the pay item.

(4) (a) For a major increase in quantity, the Township or contractor may request to renegotiate the price for the quantity in excess of 120 percent of the bid proposal quantity. If a mutual agreement cannot be reached on a negotiated price for a major quantity decrease, the Township shall pay the actual costs plus an additional 10 percent for overhead and an additional 10 percent for profit unless otherwise specified in the original bid.

(b) For a major decrease in quantity, the Township or contractor may request to renegotiate the price for the quantity of work performed. If a mutual agreement cannot be reached on a negotiated price for a major quantity decrease, the Township shall pay the actual costs plus an additional 10 percent for overhead and an additional 10 percent for profit unless otherwise specified in the original bid; provided, however, that the Township shall not make a payment in an amount that exceeds 80 percent of the value of the bid price multiplied by the bid proposal quantity.

(5) Bid proposal quantity shall mean the quantity indicated in the bid proposal less the quantities designated in the project plans as "if and where directed".

**52. FEDERAL NON-DEBARMENT CERTIFICATION N.J.S.A. 52:32-44.1 (P.L. 2019, c.406)**

Pursuant to state law any natural person, company, firm, association, corporation, or other entity prohibited, or "debarred," from contracting with the federal government agencies, shall also be prohibited from contracting for public work in the state of New Jersey. This prohibition also extends to any affiliate organization(s) held by or subject to the control of an entity of that prohibited person or entity.

Prior to awarding a contract for public work a Franklin Township must obtain written certification from the contracting person or entity through the CERTIFICATION OF NON-DEBARMENT form within this bid document, attesting to their non-debarment from contracting with federal government agencies.

**53. State Comptroller (N.J.A.C. 17:44-2.2)**

Contractor shall maintain all documentation related to the Services under this contract for a period of five (5) years from the date of final payment. Such records shall be available to the New Jersey Office of the State Comptroller upon request.

SPECIFICATIONS

FOR

**HARVEY J. INMAN PARK  
TENNIS COURT IMPROVEMENTS  
B25-016-ENG**

TOWNSHIP OF FRANKLIN  
SOMERSET COUNTY, NEW JERSEY

April 2, 2025

PHILLIP KRAMER, MAYOR

TOWNSHIP COUNCIL

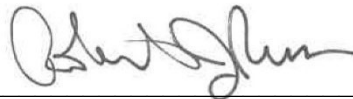
SHEPA UDDIN, DEPUTY MAYOR  
SIVARAMAN ANBARASAN  
ED POTOSNAK  
CARL R.A. WRIGHT

ALEX KHARAZI  
KIMBERLY FRANCOIS  
CHARLES ONYEJIKA  
JAMES VASSANELLA

ROBERT G. VORNLOCKER, TOWNSHIP MANAGER

ANN MARIE McCARTHY, TOWNSHIP CLERK

Name of Prospective Bidder \_\_\_\_\_



ROBERT J. RUSSO, P.E. Lic. No. GE38966



**CONSULTING AND MUNICIPAL ENGINEERS**

3141 BORDENTOWN AVENUE, PARLIN, NEW JERSEY 08859

1400 US HIGHWAY 9 SOUTH, HOWELL, NEW JERSEY 07731

**BID PROPOSAL FORM /SIGNATURE PAGE  
HARVEY J. INMAN PARK  
TENNIS COURT IMPROVEMENTS  
B25-016-ENG**

**TO THE FRANKLIN TOWNSHIP COUNCIL:**

Herewith are submitted unit costs and total cost as determined from the Engineer's estimate of quantities of work to be performed. It is understood that the quantities stated in the Schedule of Prices for the various items are estimates only and may be increased or decreased as provided in the Specifications. The undersigned declares that he/she has read the Notice, Instructions, Affidavits and Scope of Services attached, that he/she has determined the conditions affecting the proposal and agrees, if this proposal is accepted, to furnish and deliver services per the following:

<b>PAY ITEM NO.</b>	<b>PAY ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNTS</b>
1	CONSTRUCTION DRIVEWAY, 12" THICK	170	S.Y.		
2	SILT FENCE	1,175	L.F.		
3	SITE CLEARING, GRUBBING/GRADING AND PREPARATION OF SITE, MOBILIZATION AND DEMOBILZATION <b>(MAXIMUM LUMP SUM BID AMOUNT ALLOWED FOR THIS ITEM IS \$80,000.00)</b>	1	LUMP SUM		
4	EXCAVATION, TEST PIT	20	C.Y.		
5	POST TENSION CONCRETE TENNIS COURTS	4,250	S.Y.		
6	12" X 18" CONCRETE VERTICAL CURB	905	L.F.		
7	CONCRETE PAD, 6" THICK, REINFORCED	40	S.Y.		
8	HOT MIX ASPHALT WALKWAY, 3" THICK	435	S.Y.		
9	CHAIN LINK FENCE, NON-CLIMBABLE, PVC FUSED ON & BONDED, 10' HIGH	905	L.F.		
10	CHAIN LINK GATE, NON-CLIMBABLE, PVC FUSED ON & BONDED, 4' WIDE X 6' HIGH	4	UN		
11	PRIME COATING SYSTEM INCLUDING LINE STRIPING	4,250	S.Y.		
12	TENNIS NET SYSTEM	6	UN		
13	TOPSOILING, 6" THICK	525	S.Y.		

PAY ITEM NO.	PAY ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	AMOUNTS
14	FERTILIZING AND SEEDING, SESC TYPE 14	525	S.Y.		
15	STRAW MULCHING	525	S.Y.		
16	ALLOWANCE FOR UNKNOWN SUBSURFACE CONDITIONS	1	ALL.		\$15,000.00

Base Total Amount Bid - (add items 1 thru 16): \$ \_\_\_\_\_

Base Total Amount Bid (in words): \_\_\_\_\_

The undersigned is a \_\_\_\_\_ (Corporation) under the laws of the State of \_\_\_\_\_ having its  
 (Partnership)  
 (Individual)  
 Principal office at \_\_\_\_\_

\_\_\_\_\_  
 Company Federal I.D. # or last 4 digits Social Security #

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Signature of Authorized Agent Type or Print Name

\_\_\_\_\_  
 Title of Authorized Agent Date

\_\_\_\_\_  
 Telephone Number Email Address

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

**NOTE: In case of discrepancy, the amount shown in words shall govern.**

# Do not leave this form blank

THIS FORM PERTAINS ONLY TO CONSTRUCTION, ALTERATION OR REPAIR  
OF ANY PUBLIC BUILDING

## Sub Contracts

We have included in the above Base Bid Proposal the Contractors indicated below for the various divisions of work, which will be performed by said contractors on the event we are awarded the contract, it being specifically stated that we will enter into a contract with each and every one of the below named contractors; **Do not leave blank; if none, so state; if self, so state.**

<u>Division of Work</u>	<u>Name and Address of Company</u>
<u>1. The plumbing and gas fitting and all kindred work</u>	_____ _____ _____ _____
In compliance with N.J.S.A. 45:14C-2(h) Licensed master plumber	
_____ Name of Plumber	_____ License number
<u>2. Steam power plants, steam and hot water heating and ventilating and refrigeration apparatus and all kindred work;</u>	_____ _____ _____ _____
<u>3. Electrical work, including any electrical power plants, tele-data, fire alarm, or security system</u>	_____ _____ _____ _____
<u>4. Structural steel and ornamental iron work</u>	_____ _____ _____ _____

The Bidder shall provide evidence of performance security with this list of subcontractors. Evidence of performance security, in the form of a Consent of Surety, shall be supplied by the bidder on behalf of itself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof.

## REFERENCES FORM

*(Provide three, for similar maintenance services over the past 5 years):*

### Reference # 1

Name of Client	
Contact Person's Name	
Contact Person's Title	
Telephone Number	
Dates worked	
Scope of service	

### Reference # 2

Name of Client	
Contact Person's Name	
Contact Person's Title	
Telephone Number	
Dates worked	
Scope of service	

### Reference # 3

Name of Client	
Contact Person's Name	
Contact Person's Title	
Telephone Number	
Dates worked	
Scope of service	

**FRANKLIN TOWNSHIP COUNTY OF SOMERSET  
BID DOCUMENT CHECKLIST**

<b>Required With Bid</b>		<b>Read, Signed &amp; Submitted Bidder's Initial</b>
<b>A.</b>	<b><u>FAILURE TO SUBMIT ANY OF THESE ITEMS IS MANDATORY CAUSE FOR REJECTION OF BID</u></b>	
<input checked="" type="checkbox"/>	Ownership Disclosure Certification	_____
<input checked="" type="checkbox"/>	Non-Collusion Affidavit	_____
<input checked="" type="checkbox"/>	Acknowledgement of Receipt of Addenda (To be Completed if Addenda are Issued)	_____
<input checked="" type="checkbox"/>	Required Evidence EEO/Affirmative Action Regulations Certificate or Questionnaire	_____
<input checked="" type="checkbox"/>	Bid Guarantee (bid bond or certified/cashier's check) (with Power of Attorney for full amount of Bid Bond)	_____
<input checked="" type="checkbox"/>	Consent of Surety (Certificate from Surety company)	_____
<input checked="" type="checkbox"/>	Surety Disclosure Statement and Certification	_____
<input checked="" type="checkbox"/>	License(s) or Certification(s) Required by the Specifications	_____
<input checked="" type="checkbox"/>	Three (3) references for similar projects	_____
<input type="checkbox"/>	Catalog/Price List	_____
<input type="checkbox"/>	Certification of available Equipment	_____
<input type="checkbox"/>	Other:	_____
<b>B.</b>	<b><u>MANDATORY ITEM(S), REQUIRED NO LATER THAN TIME PERIOD INDICATED</u></b>	
<input checked="" type="checkbox"/>	Public Works Contractor Registration Certificate(s) for the Bidder and Named/Listed Subcontractors (Prior to Award, but effective at time of bid)	_____
<input checked="" type="checkbox"/>	Certification of Non-Debarment Form (must submit prior to award)	_____
<input checked="" type="checkbox"/>	NJ Business Registration Certificate – Bidder – must submit Prior to Award	_____
<input checked="" type="checkbox"/>	NJ Business Registration Certificate – Named /Listed Subcontractor(s) (must submit Prior to Award)	_____
<input checked="" type="checkbox"/>	Performance and Payment (Labor and Material) Bond	_____
<input checked="" type="checkbox"/>	Disclosure of Activities in Iran (must submit prior to award of contract)	_____
<input type="checkbox"/>	_____	_____
<input checked="" type="checkbox"/>	Copy of Certificate of Insurance Name Owner as Additionally Insured	_____
<input checked="" type="checkbox"/>	Maintenance Bond	_____

This checklist is provided for bidder's use in assuring compliance with required documentation; however, it does not include all specifications requirements and does not relieve the bidder of the need to read and comply with the specifications.

Name of Bidder: \_\_\_\_\_

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

By Authorized Representative:

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

Print Name & Title: \_\_\_\_\_

FRANKLIN TOWNSHIP, COUNTY OF SOMERSET

**STATEMENT OF OWNERSHIP DISCLOSURE**

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

**Name of Organization:** \_\_\_\_\_

**Organization Address:** \_\_\_\_\_

**Part I Check the box that represents the type of business organization:**

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type)     Limited Liability Company (LLC)
- Partnership     Limited Partnership     Limited Liability Partnership (LLP)
- Other (be specific): \_\_\_\_\_

**Part II**

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

**OR**

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Address

**Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II**

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

**Please list** the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Address

**Part IV Certification**

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **<Township of Franklin>** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **< Township of Franklin >** to notify the **< Township of Franklin >** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **< Township of Franklin >** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

**FRANKLIN TOWNSHIP, COUNTY OF SOMERSET  
NON-COLLUSION AFFIDAVIT**

---

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

ss:

I, \_\_\_\_\_ of the City of \_\_\_\_\_ in

the County of \_\_\_\_\_ and State of \_\_\_\_\_ of full age, being  
duly sworn according to law on my oath depose and say that:

I am \_\_\_\_\_ of the firm of \_\_\_\_\_  
(Title or position) (Name of firm)

the bidder making this Proposal for the above named project, and that I executed the said proposal with full authority so to do; that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that Franklin Township County of Somerset relies upon the truth of the statements contained in said proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide employees or bona fide established commercial or selling agencies maintained  
by \_\_\_\_\_.  
(Name of contractor)

(N.J.S.A. 52:34-25)

Subscribed and sworn to

before me this \_\_\_\_\_ day

of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Type or print name of affiant under signature)

\_\_\_\_\_  
Notary public of

My Commission expires \_\_\_\_\_.

**A.**  
**EEO/AFFIRMATIVE ACTION COMPLIANCE NOTICE**  
**N.J.S.A. 10:5-31 and N.J.A.C. 17:27 et seq**

All successful bidders are required to submit evidence of appropriate affirmative action compliance to the Township and Division of Public Contracts Equal Employment Opportunity Compliance. During a review, Division representatives will review the Township files to determine whether the affirmative action evidence has been submitted by the vendor/contractor. Specifically, each vendor/contractor shall submit to the Township, prior to execution of the contract, one of the following documents:

**Goods and General Service Vendors**

1. Letter of Federal Approval indicating that the vendor is under an existing Federally approved or sanctioned affirmative action program. A copy of the approval letter is to be provided by the vendor to the Township and the Division. This approval letter is valid for one year from the date of issuance.

**Do you have a federally-approved or sanctioned EEO/AA program?      Yes  No**   
**If yes, please submit a photostatic copy of such approval.**

2. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27-1.1 et seq. The vendor must provide a copy of the Certificate to the Township as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor's Employee Information Report, Form AA-302 by the Division. The period of validity of the Certificate is indicated on its face. Certificates must be renewed prior to their expiration date in order to remain valid.

**Do you have a State Certificate of Employee Information Report Approval? Yes  No**   
**If yes, please submit a photostatic copy of such approval.**

3. The successful vendor shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with \$150.00 Fee and forward a copy of the Form to the Township. Upon submission and review by the Division, this report shall constitute evidence of compliance with the regulations. Prior to execution of the contract, the EEO/AA evidence must be submitted.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) on the Division website [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance).

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 et seq. and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 et. seq and N.J.A.C. 17:27.et seq.

COMPANY: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT B**  
**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**  
**N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)**  
**N.J.A.C. 17:27-1.1 et seq.**  
**CONSTRUCTION CONTRACTS**

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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 Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable 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 age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2 et seq.. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or

scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
- (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
- (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
- (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
  - (i) The contractor or subcontractor shall interview the referred minority or women worker.
  - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
  - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
  - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
- (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprentice-ship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted Township employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for

said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its web-site, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be re-requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

**AMERICANS WITH DISABILITIES ACT OF 1990**  
**Equal Opportunity for Individuals with Disability**

The Contractor and the Owner, do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

## New Jersey Business Registration Requirements

Pursuant to N.J.S.A. 52:32-44, Franklin Township, Somerset County, New Jersey (“Contracting Agency”) is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the contractor shall provide the Contracting Agency with its proof of business registration and that of any named subcontractor(s). Subcontractors named in a bid or other proposal shall provide proof of business registration to the bidder, who in turn, shall provide it to the Contracting Agency prior to the time a contract, purchase order, or other contracting document is awarded or authorized.

During the course of contract performance:

- (1) The contractor shall not enter into a contract with a subcontractor unless the subcontractor first provides the contractor with a valid proof of business registration.
- (2) The contractor shall maintain and submit to the Contracting Agency a list of subcontractors and their addresses that may be updated from time to time.
- (3) The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Taxation at (609)292-6400. Form NJ-REG can be filed online at [www.state.nj.us/treasury/revenue/busregcert.shtml](http://www.state.nj.us/treasury/revenue/busregcert.shtml).

Before final payment is made under the contract, the contractor shall submit to the Contracting Agency a complete and accurate list of all subcontractors used and their addresses.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000, for each proof of business registration not properly provided under a contract with a contracting agency.

### Emergency Purchases or Contracts

For purchases of an emergent nature, the contractor shall provide its Business Registration Certificate **within two weeks from the date of purchase or execution of the contract or prior to payment for goods or services, whichever is earlier.**


All businesses MUST provide a copy of their Business Registration Certificate (BRC) for their registration to be complete. Below are samples of a BRC Certificate. The Taxpayer Name on the BRC must be the same as the name on the Vendor Registration and the W9 form.

Non-profit Organizations must provide proof of 501(c)(3) exemption instead of the BRC.

Online BRC Look-up: [https://www1.state.nj.us/TYTR\\_BRC/jsp/BRCLoginJsp.jsp](https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp)

Information on BRC Requirements: <http://www.state.nj.us/treasury/revenue/busregcert.shtml>

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE		DEPARTMENT OF TREASURY/ DIVISION OF REVENUE PD FORM 252 TRENTON, N.J. 08646-0252
TAXPAYER NAME:	TRADE NAME:	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
ADDRESS:	ISSUANCE DATE:	
EFFECTIVE DATE:	<i>John S. Tuohy</i> Acting Director	
FORM-BRC(08-01)	This Certificate is NOT assignable or transferable. It must be conspicuously displayed at the address.	

 <b>STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE</b>	
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
20041014112823533	

## Disclosure of Investment Activities in Iran

**Person or Entity**

### Part 1: Certification

COMPLETE PART 1 BY CHECKING **EITHER BOX.**

Pursuant to Public Law 2012, c. 25, any person or entity that is a successful bidder or proposer, or otherwise proposes to enter into or renew a contract, must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any parent entity, subsidiary, or affiliate is identified on the State Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The list is found on Treasury's website at [www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf](http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf).

The Chapter 25 list must be reviewed prior to completing the below certification. If a vendor or contractor is found to be in violation of law, action may be taken as appropriate and as may provided by law, rule or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

*I certify, pursuant to Public Law 2012, c. 25, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate thereof is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.*

**OR**

*I am unable to certify as above because the person or entity and/or a parent entity, subsidiary, or affiliate thereof is listed on the N.J. Department of the Treasury's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below sign and complete the Certification below.*

## Part 2: Additional Information

PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN.

You must provide a detailed, accurate and precise description of the activities of the person or entity, or a parent entity, subsidiary, or affiliate thereof engaging in investment activities in Iran below and, if more space is needed, on additional sheets provided by you.

## Part 3: Certification of True and Complete Information

*I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments there to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity.*

*I acknowledge that Township of Franklin County of Somerset is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the Township of Franklin County of Somerset to notify the Township of Franklin County of Somerset in writing of any changes to the answers of information contained herein.*

*I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the Township of Franklin County of Somerset and that the Township of Franklin County of Somerset at its option may declare any contract(s) resulting from this certification void and unenforceable.*

<b>Full Name (Print)</b>		<b>Title</b>	
<b>Signature</b>		<b>Date</b>	

**FRANKLIN TOWNSHIP, COUNTY OF SOMERSET**

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

<b>ADDENDUM NUMBER</b>	<b>DATE</b>	<b>ACKNOWLEDGE RECEIPT (Initial)</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Acknowledged for: \_\_\_\_\_  
(Name of Bidder)

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

Name: \_\_\_\_\_  
(Print or Type)

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

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

**FORM NOT REQUIRED IF NO ADDENDA ISSUED**



**CERTIFICATION OF NON-DEBARMENT FORM**

**FOR FEDERAL GOVERNMENT CONTRACTS**

N.J.S.A. 52:32-44.1 (P.L. 2019, c.406)

This certification shall be completed, certified to, and submitted to the contracting unit prior to contract award, except for emergency contracts where submission is required prior to payment.

<b>PART I: VENDOR INFORMATION</b>	
Individual or Organization Name	
Address of Individual or Organization	
DUNS Code (if applicable)	
CAGE Code (if applicable)	
<b>Check the box that represents the type of business organization:</b>	

- Sole Proprietorship (skip Parts III and IV)     Non-Profit Corporation (skip Parts III and IV)  
 For-Profit Corporation (any type)     Limited Liability Company (LLC)     Partnership  
 Limited Partnership     Limited Liability Partnership (LLP)  
 Other (be specific): \_\_\_\_\_

<b>PART II – CERTIFICATION OF NON-DEBARMENT: Individual or Organization</b>			
I hereby certify that the <b>individual or organization listed above in Part I</b> is not debarred by the federal government from contracting with a federal agency. I further acknowledge: that I am authorized to execute this certification on behalf of the above-named organization; that the Franklin Township, Somerset County is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the date of contract award by Township to notify the Township in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the Township, permitting the Township to declare any contract(s) resulting from this certification void and unenforceable.			
Full Name (Print):		Title:	
Signature:		Date:	

<b>PART III – CERTIFICATION OF NON-DEBARMENT: Individual or Entity Owning Greater than 50 Percent of Organization</b>

<b>Section A (Check the Box that applies)</b>	
<input type="checkbox"/>	Below is the name and address of the stockholder in the corporation who owns more than 50 percent of its voting stock, or of the partner in the partnership who owns more than 50 percent interest therein, or of the member of the limited liability company owning more than 50 percent interest therein, as the case may be.
<b>Name of Individual or Organization</b>	
<b>Home Address (for Individual) or Business Address</b>	
<b>OR</b>	
<input type="checkbox"/>	No one stockholder in the corporation owns more than 50 percent of its voting stock, or no partner in the partnership owns more than 50 percent interest therein, or no member in the limited liability company owns more than 50 percent interest therein, as the case may be.
<b>Section B (Skip if no Business entity is listed in Section A above)</b>	
<input type="checkbox"/>	Below is the name and address of the stockholder in the corporation who owns more than 50 percent of the voting stock of the organization's parent entity, or of the partner in the partnership who owns more than 50 percent interest in the organization's parent entity, or of the member of the limited liability company owning more than 50 percent interest in organization's parent entity, as the case may be.
<b>Stockholder/Partner/Member Owning Greater Than 50 Percent of Parent Entity</b>	
<b>Home Address (for Individual) or Business Address</b>	
<b>OR</b>	
<input type="checkbox"/>	No one stockholder in the parent entity corporation owns more than 50 percent of its voting stock, no partner in the parent entity partnership owns more than 50 percent interest therein, or no member in the parent entity limited liability company owns more than 50 percent interest therein, as the case may be.
<b>Section C – Part III Certification</b>	
<p>I hereby certify that no individual or organization that is debarred by the federal government from contracting with a federal agency owns greater than 50 percent of the Organization listed above in Part I or, if applicable, owns greater than 50 percent of a parent entity of _____ . I further acknowledge: that I am authorized to execute this certification on behalf of the above-named organization; that the Franklin Township, Somerset County is relying on the information contained herein and that I am under a continuing obligation from the date</p>	

of this certification through the date of contract award Township to notify the Township in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the Township, permitting the Township to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

**Part IV – CERTIFICATION OF NON-DEBARMENT: Contractor – Controlled Entities**

**Section A**



Below is the name and address of the corporation(s) in which the **Organization listed in Part I** owns more than 50 percent of voting stock, or of the partnership(s) in which the **Organization listed in Part I** owns more than 50 percent interest therein, or of the limited liability company or companies in which the **Organization listed above in Part I** owns more than 50 percent interest therein, as the case may be.

**Name of Business Entity**

**Business Address**


\*\*Add additional sheets if necessary\*\*

**OR**



The **Organization listed above in Part I** does not own greater than 50 percent of the voting stock in any corporation and does not own greater than 50 percent interest in any partnership or any limited liability company.

**Section B (skip if no business entities are listed in Section A of Part IV)**



Below are the names and addresses of any entities in which an entity listed in Part III A owns greater than 50 percent of the voting stock (corporation) or owns greater than 50 percent interest (partnership or limited liability company).

**Name of Business Entity Controlled by Entity Listed in Section A of Part IV**

**Business Address**


**Add additional Sheets if necessary**			
<b>OR</b>			
<input type="checkbox"/>	No entity listed in Part III A owns greater than 50 percent of the voting stock in any corporation or owns greater than 50 percent interest in any partnership or limited liability company.		
<b>Section C – Part IV Certification</b>			
<p>I hereby certify that the <b>Organization listed above in Part I</b> does not own greater than 50 percent of any entity that that is debarred by the federal government from contracting with a federal agency and, if applicable, does not own greater than 50 percent of any entity that in turns owns greater than 50 percent of any entity debarred by the federal government from contracting with a federal agency. I further acknowledge: that I am authorized to execute this certification on behalf of the above-named organization; that the <b>Franklin Township, Somerset County</b> is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the date of contract award by <b>Township</b> to notify the <b>Township</b> in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the <b>Township</b>, permitting the <b>Township</b> to declare any contract(s) resulting from this certification void and unenforceable.</p>			
Full Name (Print):		Title:	
Signature:		Date:	

**SAMPLE AA- 201 (Initial Project Workforce Report)**

FORM AA-201  
Revised 11/11

**STATE OF NEW JERSEY**

DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
CONSTRUCTION EEO COMPLIANCE MONITORING PROGRAM

**INITIAL PROJECT WORKFORCE REPORT CONSTRUCTION**

**Official Use Only**

Assignment

Code

For instructions on completing the form, go to: [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa201ins.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa201ins.pdf)

1. FID NUMBER		2. CONTRACTOR ID NUMBER		5. NAME AND ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT					
3. NAME AND ADDRESS OF PRIME CONTRACTOR				Name:					
(Name)				Address:					
(Street Address)				CONTRACT NUMBER		DATE OF AWARD		DOLLAR AMOUNT OF AWARD	
(City)		(State)		(Zip Code)		6. NAME AND ADDRESS OF PROJECT		7. PROJECT NUMBER	
4. IS THIS COMPANY MINORITY OWNED [ ] OR WOMAN OWNED [ ]				Name:					
				Address:					
9. TRADE OR CRAFT		PROJECTED TOTAL EMPLOYEES		PROJECTED MINORITY EMPLOYEES				8. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)? YES <input type="checkbox"/>	
		MALE		FEMALE		MALE		FEMALE	
		J AP		J AP		J AP		J AP	
		PROJECTED PHASE-IN DATE		PROJECTED COMPLETION DATE					
1. ASBESTOS WORKER									
2. BRICKLAYER OR MASON									
3. CARPENTER									
4. ELECTRICIAN									
5. GLAZIER									
6. HVAC MECHANIC									
7. IRONWORKER									
8. OPERATING ENGINEER									
9. PAINTER									
10. PLUMBER									
11. ROOFER									
12. SHEET METAL WORKER									
13. SPRINKLER FITTER									
14. STEAMFITTER									
15. SURVEYOR									
16. TILER									
17. TRUCK DRIVER									
18. LABORER									
19. OTHER									
20. OTHER									

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

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

10. (Please Print Your Name)

(Title)

(Area Code)

(Telephone Number)

(Ext.)

(Date)

**SAMPLE AA-202  
(Monthly Project Workforce Report)**

FORM AA-202  
REVISED 11/11

**State Of New Jersey**  
*Department of Labor & Workforce Development  
Construction EEO Compliance Monitoring Program*

**MONTHLY PROJECT WORKFORCE REPORT - CONSTRUCTION**

For instructions on completing the form, go to: <a href="http://www.state.nj.us/treasury/contract_compliance/pdf/aa202ins.pdf">http://www.state.nj.us/treasury/contract_compliance/pdf/aa202ins.pdf</a>		3. FID or SS Number	
1. Name and address of Prime Contractor  (NAME)	2. Contractor ID Number	4. Reporting Period	
(ADDRESS)		5. Public Agency Awarding Contract	Date of Award
(CITY) (STATE) (ZIP CODE)		6. Name and Location of Project County	7. Project ID Number

8. CONTRACTOR NAME (LIST PRIME CONTRACTOR WITH SUBS FOLLOWING)	9. PERCENT OF WORK COMPLETED	10. TRADE OR CRAFT	CLASSI- FICATION (SEE REVERSE)	11. NUMBER OF EMPLOYEES						12. TOTAL	13. WORK HOURS				14. % OF WORK HRS				15. CUM. WORK HRS			16. CUM. % OF W/H	
				A.	B.	C.	D.	E.	F.	NO. OF MIN. EMP.	TOTAL WORK HOURS	A.	B.	A.	B.	TOTAL WORK HOURS	A.	B.	A.	B.			
				TOTAL	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	FEMALES	MIN.	MIN.	FEMALE	% OF MIN. WH	% OF FEMALE WH	MIN.	FEMALE	% OF MIN. WH	% OF FEM. WH					
			J																				
			AP																				
			J																				
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			AP																				
			J																				
			AP																				
			J																				
			AP																				

17. COMPLETED BY (PRINT OR TYPE)

(NAME) (SIGNATURE) (TITLE)

(AREA CODE) (TELEPHONE NUMBER) (EXT.) (DATE)

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B 1.16	NO PAYMENT FOR "DOWNTIME"

**SECTION B. INSTRUCTION TO BIDDERS****PART 1 - PRELIMINARY MATTERS****B 1.9 MINIMUM WAGE RATES**

Not less than prevailing rates promulgated by New Jersey Department of Labor and Industry, and, if the project is partially or totally financed with Federal Funds, prevailing Federal Wage Rates, whichever is greater.

**B 1.10 VERBAL STATEMENTS NOT BINDING**

The written terms and provisions of these documents supersede all prior verbal statements of the Engineer or other representatives of the Owner, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any way whatsoever, the Specifications and Contract Documents.

**B 1.11 LAYOUT SURVEY WORK BY CONTRACTOR**

These Specifications provide for the furnishing of Primary Reference Points by the Owner. Horizontal and/or Vertical Control reference points are to be protected and maintained. Replacement of disturbed or destroyed reference points shall be by the Owner at the Contractor's expense. Construction layout controls shall be established from the primary reference points by the Contractor's Surveyor as a cost included in the respective Bid Prices.

**B 1.12 WATER AND/OR POWER SUPPLY**

Note carefully the project site(s) conditions and provisions of the Specifications with regard to supply of potable water and/or power to the site(s).

**B 1.13 PHOTOGRAPHS - UNLESS WAIVED BY THE TERMS OF THE PROPOSAL**

Preconstruction, Progress, and Final Construction Photographs are required and the cost of same shall be included in the respective Bid Prices.

**B 1.14 JOB PROCEDURES**

Note particularly the required Job Procedures.

**B 1.15 MOBILIZATION TO SEVERAL WORK SITES**

The work of this Contract may incorporate improvements at separate locations throughout the Municipality. All mobilization and demobilization costs, including the moving of men, materials and equipment from one improvement site to another improvement site, shall be included in the respective Bid Prices and no separate payment will be made for same.

**B 1.16 NO PAYMENT FOR "DOWNTIME"**

If in the course of the work of this project, significant "Changed Conditions" are encountered to the extent work must be temporarily halted, particularly due to unanticipated conflict with existing utilities, the affected work element shall be halted and the Engineer, and affected utility, immediately notified. The Engineer shall have a reasonable time to inspect the site and determine the required course of action. It is the Contractor's responsibility to coordinate all utility relocation work with the affected utility company, the Owner, and the Engineer. Accordingly, the utility company shall have reasonable time to relocate an affected utility line. In such a situation, the Contractor shall be entitled to an appropriate extension of time and possibly additional compensation for additional work, if any. In all cases, the Engineer shall determine if there is a "Changed Condition" and his decision shall be binding upon the Contractor and the Owner.

STATE OF NEW JERSEY DEBARRED LIST AFFIDAVIT

STATE OF NEW JERSEY

COUNTY OF \_\_\_\_\_, ss

I, \_\_\_\_\_ of the City/ Town of \_\_\_\_\_

in the County of \_\_\_\_\_ and the State of \_\_\_\_\_

being of full age and fully sworn according to law on my oath depose and say that:

I am \_\_\_\_\_

an officer of the firm of \_\_\_\_\_

the Bidder making the Proposal for the above named work, and that I executed the said Proposal with full authority to do so; that said Bidder at the time of making of this bid is not included on the State of New Jersey, Treasurer's List of Debarred, Suspended and Disqualified Bidders; and that all statements contained in said Proposal and in this affidavit are true and correct, and made with the full knowledge that the **Township of Franklin**, as the Owner relies upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the contract for said work.

The undersigned further warrants that should the name making this bid appear on the State Treasurer's List of Debarred, Suspended and Disqualified Bidders at anytime prior to, and during the life of this Contract including Guarantee Period, that the Local Governing Unit shall be immediately so notified by the signatory of this Eligibility Affidavit.

The undersigned understands that the firm making the bid as Contractor is subject to disbarment, suspension and/or disqualification in contracting with the State of New Jersey, if the Contractor pursuant to NJAC 7:1-5.2, commits any of the acts listed therein, and as determined according to applicable law and regulation.

\_\_\_\_\_  
NAME OF CONTRACTOR

\_\_\_\_\_  
NAME AND TITLE OF AFFIANT

Subscribed and sworn  
Before me this \_\_\_\_ day  
of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_

INDEMNITY AND HOLD HARMLESS AGREEMENT

\_\_\_\_\_ (Contractor, Individual, Group) agrees to indemnify and hold harmless the **Township of Franklin**, and/or the Somerset Counties Municipal Joint Insurance Fund, and their agents and employees, from and against all claims, damages, losses, and expenses, including reasonable attorney's fees in case it shall be necessary to file action, arising out of performance of the work herein, which is (1) for bodily injury, illness or death, or for property damage, including loss of use, and (2) caused in whole or in part by \_\_\_\_\_ (Contractor) negligent act or omission, or that of subcontractor, or that of anyone employed by them or for whose acts contractor or subcontractor may be liable. This indemnification and agreement shall apply in all instances whether **Township of Franklin** and/or the Somerset Counties Municipal Joint Insurance fund is made a direct party to the initial action or claim is subsequently made a party to the action by third-party in-pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues emanating from the original cause of action or claim.

\_\_\_\_\_  
CONTRACTOR, INDIVIDUAL, GROUP

\_\_\_\_\_  
DATE

Subscribed and sworn  
Before me this \_\_\_\_ day  
of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_



### INSTRUCTIONS TO BIDDERS – PERFORMANCE OF PLUMBING WORK

All bidders seeking to perform plumbing work on a publicly bid contract are required to comply with NJSA 45:14C-2 and NJAC 13:32-1.3. These provisions require that plumbing work on such a contract may only be performed by an entity in which a licensed master plumber owns not less than 10% of the issued and outstanding shares of stock in the corporation, or not less than 10% of the capital of the partnership, or not less than 10% of the ownership of any other firm or legal entity.

Accordingly, if a bidder intends to perform plumbing work on a publicly bid contract with its own employees or by the bidder himself, a master plumber must possess an ownership interest that complies with NJSA 45:14C-2 and NJAC 13:32-1.3 in the entity submitting the bid. Alternatively, if a bidder intends to perform such work through use of a subcontractor, a master plumber must possess an ownership interest that complies with NJSA 45:14C-2 and NJAC 13:32-1.3 in the subcontractor.

### INSTRUCTIONS TO BIDDERS – PERFORMANCE OF SPECIALTY TRADE WORK

In the event a general contractor will be required to furnish (1) plumbing and gas fitting and kindred work; (2) steam power plants, steam and hot water heating and ventilating apparatus and kindred work; (3) electrical work; and/or (4) structural steel and ornamental iron work, the general contractor must complete all of the sections on the following form in order to provide the required information demonstrating that either its subcontractors, its own employees or the bidder himself possess the necessary or required qualifications to perform work in each appropriate specialty trade category applicable to the contract. The completed form must be submitted with the general contractor's bid.

A general contractor that intends to utilize a specific subcontractor to perform work in one or more of the specialty trade categories set forth on the following form shall provide the required information with regard to that subcontractor in the appropriate spaces for each specialty trade category applicable to the contract.

A general contractor that intends to perform work in one or more of the specialty trade categories set forth on the following form through the use of its own employees or the general contractor himself rather than through utilization of a subcontractor shall write the word "In-House" next to each applicable category and then insert the name, and the license number where required, of each such employee of the general contractor or the general contractor himself in the appropriate spaces for each specialty trade category applicable to the contract.

**IDENTIFICATION OF OTHER SUBCONTRACTORS**

In addition to listing the subcontractors required by NJSA 40A:11-16 on the previous page, it is requested the bidder list the name and the address of the subcontractors intended to perform other categories of work on this project. Failure to list all other subcontractors may result in the bid being deemed non-responsive and subject to rejection.

CATEGORY

NAME AND ADDRESS

DRAINAGE AND PIPE  
CONTRACTOR

---

---

---

PAVING CONTRACTOR

---

---

---

CONCRETE CONTRACTOR

---

---

---

LANDSCAPING CONTRACTOR

---

---

---

OTHER (SPECIFY)

---

---

---

**\*\*\*IMPORTANT NOTE\*\*\***

**EXPERIENCE STATEMENTS SHALL BE ATTACHED FOR EACH OF THE ABOVE CONTRACTORS AND/OR SUBCONTRACTORS IN THE FORM SET FORTH IN THIS PROPOSAL. ALL CONTRACTORS AND SUBCONTRACTORS SHALL BE REGISTERED PURSUANT TO THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT AT THE TIME OF BID. BUSINESS REGISTRATION CERTIFICATES FOR ALL CONTRACTORS AND/OR SUBCONTRACTORS IN THE FORM SET FORTH IN THIS PROPOSAL MUST BE OBTAINED PRIOR TO RECEIPT OF BIDS AND MAY BE SUBMITTED ANYTIME PRIOR TO AWARD OF CONTRACT.**

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## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY (Also See G 1.1)

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. 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 which is evidence of the agreement between Owner and Contractor covering the Work.
  3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
  5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
  7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
  8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
  9. *Change Order*—A document recommended by Engineer 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, issued on or after the Effective Date of the Agreement.
  10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
  11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given 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 under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *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.

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *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 for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *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 at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *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, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface

or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

## 1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - a. does not conform to the Contract Documents; or
  - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 – PRELIMINARY MATTERS

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

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

### 2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

### 2.03 *Commencement of Contract Times; Notice to Proceed (Also See G 2.3)*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement 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 Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

## 2.04 *Starting the Work*

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

## 2.05 *Before Starting Construction (Also See G 2.6.4 & 1-2.6)*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), 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 Documents;
  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.

## 2.06 *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 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, 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 instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

## 2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of

the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

### **ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

#### **3.01 *Intent* (Also See G 3.1.1)**

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

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

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

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

- A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby. (Also See G 2.5.1)
2. *Contractor's Review of Contract Documents During Performance of Work:* If, 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) any standard, specification, manual, or code, or (c) 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 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04. (Also See G 3.3.1)
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 Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
  - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); 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 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
  1. A Field Order;
  2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

### 3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
  1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
  2. 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.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

### 3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

## **ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS**

### 4.01 *Availability of Lands* (Also See 1-4.1)

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are

unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

- 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 the Work is to be performed 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.

#### 4.02 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

#### 4.03 *Differing Subsurface or Physical Conditions* (Also See G 3.3.1)

A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition 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 meet any one or more of the categories described in Paragraph 4.03.A; and
  - 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 Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
  - a. Contractor knew of the existence of such conditions at the time Contractor made a final 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
  - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
  - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to

all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

#### 4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
  - a. reviewing and checking all such information and data;
  - b. locating all Underground Facilities shown or indicated in the Contract Documents;
  - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
  - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, 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 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or

Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points* (Also See 1-4.4)

- 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.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph

- 6.16.A); and (iii) 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 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. 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. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. 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 a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 5 – BONDS AND INSURANCE

### 5.01 *Performance, Payment, and Other Bonds* (Also See G 5.1)

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

### 5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

### 5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance

requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance* (Also See G 5.3)

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
  - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
  - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
  - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
    - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
    - b. by any other person for any other reason;
  - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
  - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
  - a. Such insurance shall remain in effect for two years after final payment.
  - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

#### 5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

#### 5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
  2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
  3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
  4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
  5. allow for partial utilization of the Work by Owner;
  6. include testing and startup; and
  7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

#### 5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
  2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, 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. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

## ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

### 6.01 *Supervision and Superintendence* (Also See G 6.2)

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

### 6.02 *Labor; Working Hours* (Also See G 6.3.1, 1-6.3)

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner’s written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

### 6.03 *Services, Materials, and Equipment* (Also See 1-6.4.1 to 1-6.4.6 inclusive and 1-6.5)

- 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.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 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 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
  2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

#### 6.05 *Substitutes and "Or-Equals"* (Also See G 6.7.1)

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description 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 or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that:
      - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
      - 3) it has a proven record of performance and availability of responsive service.
    - b. Contractor certifies that, if approved and incorporated into the Work:
      - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
      - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
  - 1) shall certify that the proposed substitute item will:
    - a) perform adequately the functions and achieve the results called for by the general design,
    - b) be similar in substance to that specified, and
    - c) be suited to the same use as that specified;
  - 2) will state:
    - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
    - b) 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
    - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
  - 3) will identify:
    - a) all variations of the proposed substitute item from that specified, and
    - b) available engineering, sales, maintenance, repair, and replacement services; and

- 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. 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.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

#### 6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection. (Also See G 6.8.1)
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other

individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work. (Also See G 6.8.2)

- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
  2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

### 6.07 *Patent Fees and Royalties*

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

### 6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

### 6.09 *Laws and Regulations (Also See G 6.14.3)*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear 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. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

#### 6.10 *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.

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

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. 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 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 by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations. (Also See 1-6.17.1)

- 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 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. (Also See 1-6.17.2)

- D. *Loading 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 property to stresses or pressures that will endanger it.

#### 6.12 *Record Documents*

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

#### 6.13 *Safety and Protection* (Also See G 6.20.4, 1-6.20.4, 1-6.20.4.1, 1-6.20.4.2)

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
1. all persons on the Site or who may be affected by the Work;
  2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and (Also See 1-6.20.2)
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction. (Also See 1-6.20.3.1, 1-6.20.3.2)
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

#### 6.14 *Safety Representative*

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

#### 6.15 *Hazard Communication Programs*

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

#### 6.16 *Emergencies*

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

#### 6.17 *Shop Drawings and Samples (Also See 1-6.23.1)*

- A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*
    - a. Submit number of copies specified in the General Requirements.
    - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.
  2. *Samples:*
    - a. Submit number of Samples specified in the Specifications.
    - b. 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 6.17.D.
- B. 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. *Submittal Procedures:*
1. Before submitting each Shop Drawing or Sample, Contractor shall have:
    - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
    - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
    - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
    - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
  2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
  3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.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's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work* (Also See G 6.29.1)

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee* (Also See G 14.15.1)

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
  6. any inspection, test, or approval by others; or
  7. any correction of defective Work by Owner.

#### 6.20 *Indemnification*

- A. 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 performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable . (Also See G 6.30)
- 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 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### 6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

### **ARTICLE 7 – OTHER WORK AT THE SITE**

#### 7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and
  2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. 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. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, 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.

## 7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
  2. the specific matters to be covered by such authority and responsibility will be itemized; and
  3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

## 7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.

- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

## ARTICLE 8 – OWNER'S RESPONSIBILITIES

### 8.01 *Communications to Contractor*

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

### 8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

### 8.03 *Furnish Data*

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

### 8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

### 8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### 8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

### 8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

### 8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *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.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

- 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 pursuant to Paragraph 6.13.D.

**ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION**

9.01 *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 Documents.

9.02 *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 9.09. 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.

### 9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

### 9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which 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. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05. (Also See G 9.4.1)

### 9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

### 9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work (Also See G 9.11.1)*

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.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 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

**ARTICLE 10 – CHANGES IN THE WORK; CLAIMS**

10.01 *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 by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided). (Also See G 10.1.1)
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *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 as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

#### 10.04 *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.

#### 10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part;
  2. approve the Claim; or
  3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

## **ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### *11.01 Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and

equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written

consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone 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 Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 11.02 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:*
  - 1. Contractor agrees that:
    - a. 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
    - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance:*
  - 1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

## 11.03 Unit Price Work (Also See G 11.9.1.1)

- 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. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- 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. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
  - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect to any other item of Work; and
3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

## **ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES**

### **12.01 *Change of Contract Price* (Also See G 11.1.1)**

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for 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, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee*: The Contractor's fee for overhead and profit shall be determined as follows:
  1. a mutually acceptable fixed fee; or
  2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
    - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

- d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

#### 12.02 *Change of Contract Times* (Also See G 12.0 and G 12.3.1)

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

#### 12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.

- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

## **ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

### *13.01 Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

### *13.02 Access to Work (Also See 1-13.2)*

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

### *13.03 Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests. (Also See 1-13.3)
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
  2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
  3. as otherwise specifically provided in the Contract Documents.
- 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 and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs,

or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

- E. 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.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

#### 13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, 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, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such 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 Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

#### 13.05 *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, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them. (Also See 1-13.10)

### 13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

### 13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  1. repair such defective land or areas; or
  2. correct such defective Work; or
  3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

### 13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) 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 pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

### 13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, 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, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, 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 (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) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued

incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. 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 13.09.

## **ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION (Also See G 14.0)**

### *14.01 Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

### *14.02 Progress Payments (Also See G 14.2.1)*

#### *A. Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

#### *B. Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, 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 9.07, 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 Documents; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

- e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
  - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

*C. Payment Becomes Due:*

- 1. After presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor, in accordance with G14.4 of the Supplementary Conditions.

*D. Reduction in Payment:*

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
  - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
  - b. 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;
  - c. there are other items entitling Owner to a set-off against the amount recommended; or
  - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action 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, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

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

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

#### 14.04 *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 (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- 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 tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. 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 tentative list.

#### 14.05 *Partial Utilization*

- 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. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and 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 14.04.A through D for that part of the Work.
  2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and 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 14.04 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 5.10 regarding property insurance.

#### 14.06 *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 is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 14.07 *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, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
  - b. consent of the surety, if any, to final payment;
  - c. a list of all Claims against Owner that Contractor believes are unsettled; and
  - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) 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.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. 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. Payment Becomes Due:*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

*14.08 Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without

terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

#### 14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

### **ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION**

#### 15.01 *Owner May Suspend Work* (Also See G 15.1.1)

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 notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

#### 15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will 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 established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
3. Contractor's repeated disregard of the authority of Engineer; or
4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
  2. 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
  3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.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 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) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed 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.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. 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. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

### 15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
  3. 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) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
  4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

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

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 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 16 – DISPUTE RESOLUTION**

### 16.01 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
  2. agrees with the other party to submit the Claim to another dispute resolution process; or
  3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

## ARTICLE 17 – MISCELLANEOUS

### 17.01 *Giving Notice*

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

### 17.02 *Computation of Times* (Also See G 17.2.3)

- A. When any period of time is referred to in the Contract Documents 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.

### 17.03 *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 Documents. 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.

### 17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

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## SECTION G. SUPPLEMENTARY CONDITIONS

### **G 0.2**      **INTRODUCTION**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1983 ed.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

### **G 1.1**      **DEFINITIONS**

Definitions contained in the General Conditions Article F.1.1 are supplemented with the following additional definitions.

**SURETY** - The corporate body which is bound with and for the Contractor and which engages to be responsible for the faithful performance of the contract, and to indemnify the Owner against all claims for damages.

**INSPECTOR** - The representative of the Engineer designated to observe the work for which these specifications are intended.

**TESTING LABORATORY** - A laboratory selected by the Owner for the inspection and testing of materials.

**MANUFACTURER** - Shall be the manufacturer of the equipment specified.

**STANDARD SPECIFICATIONS** - The New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, dated 2007, as amended, supplemented and/or superseded to date and/or clarified by the Contract Documents.

**SOIL EROSION STANDARDS** - The "Standards for Soil Erosion and Sediment Control in New Jersey", prepared by the New Jersey State Soil Conservation Committee, 2014, as amended and supplemented to date.

### **G 2.3**      **NOTICE TO BEGIN WORK**

Article F 2.3 of the General Conditions is amended as follows.

The Contractor shall start work on or before the date specified herein or if no date is so specified, within ten (10) days of the mailing of the notice by the Engineer to the Contractor directing him to proceed with work.

### **G 2.5.1**      **DIMENSIONS** - Addition to General Conditions Article F 2.5

Figured dimensions on the Contract Drawings shall be given preference over scaled dimensions, but shall be checked by the Contractor before starting construction. Any errors, omissions or discrepancies shall be brought immediately to the attention of the Engineer, and his decisions thereon shall be final.

### **G 2.6.4**      **BREAKDOWN COSTS OF LUMP SUM ITEMS** - Addition to General Conditions Article F 2.6

Before the preparation of the first estimate, the Contractor shall submit for the Engineer's approval a schedule of breakdown costs of all lump sum bid items into a series of minor subdivisions in the manner to be directed by the Engineer and for the sole purpose of determining the estimates of work done for partial payments.

Revisions to the schedule, if required, shall be furnished acceptable to the Engineer prior to consideration for partial payment.

**G 3.1.1**      **WORK REQUIRED BY THE CONTRACT DOCUMENTS** - Addition to General Conditions Article F 3.1

The Contract Documents require the furnishing of all labor, superintendence, materials, plant, power, light, heat, fuel, water, tools, appliances, equipment, supplies and other means of construction necessary or proper for performing and completing the work. In general the completed work shall consist of the improvements and appurtenances completely installed, successfully tested and in "ready to operate" condition.

The Contractor shall perform and complete the work in the manner best calculated to promote rapid construction consistent with safety of life and property, and to the satisfaction of the Engineer, and in strict accordance with the Contract Documents. The Contractor shall clean up the work and maintain it during and after construction, until accepted, and shall do all work and pay all costs incidental thereto. He shall repair or restore all structures and property that may be damaged or disturbed during performance of the work.

Detailed specifications for materials, equipment, workmanship and all items pertaining to a particular part of the work may be found under those parts of the Contract describing the work to be done and the methods of measurement and payment for the various Bid Items.

All work called for in the Specifications applicable to this Contract, but not shown on the plans in their present form, or vice versa, shall be of the like effect as if shown or mentioned in both. Work not specified in either the Plans or in the Specifications, but involved in carrying out their intent or in the complete and proper execution of the work, is required and shall be performed by the Contractor as though it were specifically delineated or described.

The apparent silence of the Specifications as to any detail, or the apparent omission from them of a detailed description concerning any work to be done and materials to be furnished, shall be regarded as meaning that only the best general practice is to prevail and that only material and workmanship of the best quality is to be used, and interpretation of these Specifications shall be made upon that basis.

**G 5.1**      **SECURITY FOR FAITHFUL PERFORMANCE & FOR LABOR AND MATERIALS PAYMENTS** - Supplement to General Conditions Article F 5.1

Simultaneously with this delivery of the executed contract and successful bidder must deliver to the Owner an executed bond as follows:

1.      Covering the faithful performance of the Contract and the payment of all obligations arising thereunder in an amount equal to one hundred percent (100%) of the contract amount as awarded.
2.      ONLY IF REQUIRED BY THE "Proposal" covering all payments for labor, equipment and materials obligations arising from performance of the Contract in an amount equal to one hundred percent (100%) of the contract amount as awarded.

These bonds must be prepared in a satisfactory form and having as surety thereon such surety company or companies as are acceptable and approved by the Owner, and as are authorized to transact business in this State. Copies of the bonds shall be sent to the Engineer at the time of submission to the Owner.

**G 5.3**      **COMPENSATION AND LIABILITY INSURANCE** – Supplement to General Condition Article F 5.3

If, at any time, any of the said policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy become unsatisfactory, the contractor shall promptly obtain a new policy, and submit the same to the Owner for approval and/or submit certificate thereof as required. Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this Contract may, at the election of the Owner, be forthwith declared suspended, discontinued or terminated. Failure of the Contractor to take out and/or maintain or the taking out and/or maintenance of any required insurance shall not relieve the

Contractor from any liability under the Contract nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

All required insurance must be in effect and continued so during the life of the Contract in not less than the amounts stated hereinafter.

It is understood that the term "Owner" shall be deemed to include all authorities, boards, bureaus, commissions, divisions, districts, departments and offices of the Owner and the individual members thereof in their official capacities.

The insurance payable under these policies shall be applied by the Company first, to the protection of the Owner and the remainder, if any, to the other named insureds.

In the event that claims in excess of these amounts are filed by reason of any operations under the Contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims as may be determined by the Owner.

Amounts of Insurance required shall not be less than the amounts shown below and certificates, or full copies of policies must be furnished as noted below.

The Contractor shall obtain an Owner's Protective Policy as described below or, if Article C3 of the Bidder's Proposal specifies that an Owner's Protective Policy is not required, the Owner and Engineer shall be named as co-insured parties on the insurance policies to be obtained by the Contractor under Articles G5.3.1, G5.3.2, G5.3.3 and G5.3.5.

**G 5.3.1 WORKMEN'S COMPENSATION - CERTIFICATE REQUIRED**

Coverage A - New Jersey Statutory  
Coverage B - Unlimited

**G 5.3.2 COMPREHENSIVE GENERAL LIABILITY LIMITS - CERTIFICATE REQUIRED** - including explosion, collapse, underground utilities, contractual, independent contractors, and completed operations coverage.

PROPERTY DAMAGE

for any one accident	\$500,000
for all accidents	\$1,000,000

PUBLIC LIABILITY

for any one person	\$2,000,000
for any one accident	\$5,000,000

**G 5.3.3 AUTO AND/OR TRUCK LIABILITY - CERTIFICATE REQUIRED**

AUTOMOBILE AND/OR TRUCK PROPERTY DAMAGE

for any one accident	\$500,000
for all accidents	\$1,000,000

AUTOMOBILE AND/OR TRUCK BODILY INJURY LIABILITY

for any one person	\$2,000,000
for any one accident	\$5,000,000

**G 5.3.4 OWNER'S PROTECTIVE POLICY - ORIGINAL POLICY REQUIRED**

An Owner's Protective Policy shall be required unless the terms of the proposal indicate otherwise

NAMED INSURED - Owner, as identified in the Proposal and Agreement

CO-INSURED - Engineer, as identified in the Proposal and AgreementPROPERTY DAMAGE

one accident	\$500,000
all accidents	\$1,000,000

PUBLIC LIABILITY

one accident	\$2,000,000
All accidents	\$5,000,000

AUTOMOBILE AND/OR TRUCK PROPERTY DAMAGE LIABILITY

for any one accident	\$500,000
for all accidents	\$1,000,000

AUTOMOBILE AND/OR TRUCK BODILY INJURY LIABILITY

for any one person	\$2,000,000
for any accident	\$5,000,000

**G 5.3.5 SPECIAL INSURANCE REQUIREMENTS (where applicable) - CERTIFICATE REQUIRED.**

- |                                 |  |
|---------------------------------|--|
| 1. Marine Work                  | -Longshoremen's & harbor<br>-Workers Endorsement, or -Maritime Endorsement |
| 2. Builder's Risk               | -One Hundred (100%) Percent of the Structure's Value                       |
| 3. Railroad Protective Railroad | -Insurance Requirements Equal to that of the required by Railroad          |

**G 5.3.6 EVIDENCE OF INSURANCE:** The contractor shall file with the Owner and Engineer before commencing work under this contract, Certificates of Insurance, or policies where required, which certificates shall bear the following information:

- Name and address of the insured.
- Title and location of the operations to which the insurance applies.
- The number of the policy and the type or types of insurances in force thereunder on the date borne by such certificates.
- The expiration date of policy and the limit or limits of liability thereunder on the date borne by such certificate.
- A statement that the insurance of the type afforded by the policy applies to all of the operation on and at the site of the project which are undertaken by the insured during the performance of his contract or subcontract.
- A STATEMENT INDICATING THAT THE OWNER AND THE ENGINEER OR HIS AUTHORIZED REPRESENTATIVE ARE NAMED CO-INSURED PARTIES
- A statement as to the exclusions of the policy, if any.

8. A statement showing the method of cancellations provided for by the policy. If cancellations may be affected by the giving of notice to the insured by the insurer, the policy shall provide for the lapse of such number of days following the giving of such notice that in the ordinary course of transmission the insured will have actually received such notice at least thirty (30) days before the cancellation becomes effective. Notice of cancellation shall also be delivered to Owner and Engineer not less than thirty (30) days prior to such lapse or termination.

**G 5.3.7 COMPLETE OPERATIONS COVERAGE** shall be provided on all Contracts

**G 6.2** **CONTRACTOR'S REPRESENTATIVE ALWAYS PRESENT** - Supplement to General Conditions Article F 6.2

The Contractor shall give his personal supervision to the faithful prosecution of the work, and in case of his absence, shall have a competent, experienced and reliable foreman or superintendent, acceptable to the Owner, on the site, who shall follow without delay all instructions of the Owner or the Engineer or their assistants in the prosecution and completion of the work and every part thereof, with full authority to supply men, material, and equipment immediately. Incompetent, inexperienced, unreliable, unruly, uncooperative and/or otherwise unacceptable superintendents or foremen shall be promptly removed and acceptably replaced as ordered by the Engineer.

**G 6.3** **OVERTIME WORK** - Supplement to General Conditions Article F 6.3

Unless otherwise especially permitted, or specifically required by the Contract Documents, no work shall be done between the hours of 6:00 P.M. and 7:00 A.M., nor on Saturdays, Sundays, or any legal holiday, except as necessary for the proper care and protection of work already performed. If it shall become absolutely necessary to perform overtime work, the Engineer shall be informed a reasonable time in advance of the beginning of performance of such work. Only such work shall be done at night as can be done satisfactorily and in a first-class manner. Good lighting and all other necessary facilities for carrying out and inspecting the work shall be provided and maintained at all points where such work is being done. Except for emergencies, no work requiring inspections shall be completed before 8 A.M. or after 4:30 P.M. without prior approval of the Engineer.

**G 6.3.1 RECORDS-EMPLOYMENT PREFERENCE-INSURANCE** Supplement to General Conditions Article F 6.3

The Contractor shall provide statutory benefits, workmen's compensation, unemployment insurance and social security.

The contractor and subcontractor, if any there be, shall keep the following informative records of this public work project:

- a. Record of hours worked by each workman, laborer and mechanic on each day.
- b. Record of days worked each week by each workman, laborer and mechanic.
- c. Schedule of occupation or occupations at which each workman, laborer, and mechanic on the project is employed during each work day and week.
- d. Schedule of hourly wage rates paid to each workman, laborer, and mechanic for each occupation.

The Contractor and subcontractors shall keep a record of the actual hours each day that the major items of equipment are used on the work. This will include compressors, shovels, bulldozers, rollers, derricks, cranes, pile drivers, concrete mixer, tugboats, scows, drill boats, and other craft, pumps etc. This list shall be kept available for inspection by the Engineer, and a certified copy shall be submitted to the Engineer if so required prior to the preparation of any estimate for payment.

Insurance against accident for all persons employed shall be as provided by the Workman's Compensation Law of the State of New Jersey.

Each Contractor and subcontractor shall keep a list of his employees, stating whether they are citizens of the State of New Jersey, native born citizens or naturalized, and, in the case of naturalization, the date thereof, and the name of the court in which granted.

**G 6.7.1**      **EQUIVALENT QUALITY** – Supplement to General Conditions Article F 6.7.1

Wherever, in the Contract Documents, an article, material, apparatus, product or process is specified in detail or called for by trade name or catalog reference, or by the name of the patentee, manufacturer or dealer, it shall be the basis of the bid.

Where two or more articles, materials, apparatus, products or processes are listed as acceptable by reference to trade name or otherwise, the choice of these shall be optional to the Successful Bidder/Contractor.

Should the Bidder desire to substitute other articles, materials, apparatuses, products or processes which he considers suitable, he shall state in his bid, in the place provided for it, the name of the substitute item and manufacturer and the amount of credit he proposes to allow for the substitution. THIS PROPOSED SUBSTITUTION SHALL NOT CONSTITUTE AN ALTERNATE BID.

The Successful Bidder/Contractor shall furnish such information as required by the Engineer to demonstrate that the article, material, apparatus, product or process he wishes to use is the equal of that specified in quality, finish, design, efficiency and durability and has been elsewhere demonstrated to be equally serviceable for the purposes for which it is intended. The Contractor shall set forth the reasons for desiring to make this substitution.

The Engineer shall be the sole and final authority in the determination of the Equivalent Quality of any and all proposed substitutes.

It is the INTENT OF THESE PROVISIONS that savings made possible by an acceptable substitution shall accrue equally to the benefit of the Owner and Contractor, and the proposed credit must therefore reflect the actual delivered cost difference to the Contractor, as a minimum.

Comparison of bids will be on the base, or alternate bids, if any, REQUESTED BY THE OWNER. The Owner reserves the right, AFTER AWARD OF THE CONTRACT, to accept or reject the "or equal" substitutes and credits proposed in the bid of the Successful Bidder/Contractor. If substitutes are accepted by the Owner, the Contract price shall be reduced by an amount equal to 50% of the credit offered by the Contractor.

**G 6.8.1**      **SUBCONTRACTING**

The General Conditions Article F 6.8.1 is supplemented as follows:

The Contractor shall not subcontract any part of the work included under this Contract without the previous written consent of the Owner. In making application for subcontracting the portion of the work, the Contractor shall state in writing, the portion of the work which each sub-contractor is to do or the material he is to furnish, his place of business, and such other information which may be required in order to ascertain whether such sub-contractor is responsible, reliable, and able to perform the work or to furnish the materials as called for in the Specifications. THE CONTRACTOR SHALL DO NOT LESS THAN FIFTY (50) PERCENT OF THE TOTAL WORK UNDER THIS CONTRACT WITH HIS OWN FORCES. Sub-contracting if permitted, shall not relieve the Contractor of any of his obligations under this Contract. Supervision by an expert from a manufacturer does not require approval by the Owner.

The Contractor is required to furnish and the sub-contractor shall be required to read the entire specifications and examine every Contract plan before entering into any agreement. Neither the Contractor nor a sub-contractor shall file any claims or the Owner accept such claims based upon any misunderstandings of what work he shall do, what materials he must furnish, or how he shall perform the work.

Nothing contained in this Contract shall create any contractual relations between any sub-contractor and the Owner.

Within thirty (30) days, and prior to additional payments by the Owner, after any Contractor receives payment for the work performed under this Contract, he shall pay each sub-contractor the amount allowed the Contractor for and on account of the work performed by the sub-contractor to the extent of the sub-contractor's interest therein.

**G 6.8.2**      **APPROVAL OF SUBCONTRACTORS** - Supplement to General Conditions Article F 6.8.2

Within twenty 21 (21) days of the date of the Notice of Award, the Contractor shall furnish the Owner and Engineer with a complete list of any and all proposed sub-contractors, and suppliers of principal items of equipment, he intends to use in completing the work of the project, including full name, address, telephone number, list of principals, experience record, scope of subcontract, and subcontract amount for approval. If any subcontractor or supplier shall be rejected because same, or a principal of same, is currently on the State of New Jersey list of debarred contractors and suppliers, then the Change Order cost adjustment related to the Contractor providing an acceptable replacement, or doing the subject work himself, shall not apply.

**G 6.14.3**      **COMPLIANCE WITH ALL LAWS** - Addition to General Conditions Article F 6.14

The Contractor shall keep himself informed and shall comply with all federal, state and local laws or ordinances as may apply.

Special attention is called to paragraphs of this Contract under Public Liability and Property Damage Insurance, Workmen's Compensation Insurance, Social/Security, Records/Employment/Preference/Insurance/Assignment of Contract, and to the applicable provisions of the Labor laws, the Public Health laws, and the Lien laws, the Workmen's Compensation laws, the State Unemployment Insurance laws, the Federal Social Security laws, and any and all rules and regulation promulgated by the State of New Jersey, any applicable Federal law, rule or regulation, any local laws, ordinances, resolutions or regulations of the Owner and all amendments and additions thereto.

**G 6.20.4**      **NOTICE FOR WORK NEAR GAS MAINS AND OTHER UTILITIES** - Addition to General Conditions Article F 6.20

The Contractor is required to notify utility companies or municipal owners when construction or blasting or drilling is to be done near pipes conveying combustible gas. The Contractor shall also give ample notice to all private, corporate or municipal owners before work is to be done near any utility or underground facility.

**G 6.29.1**      **RATE OF PROGRESS** - Addition to General Conditions Article F 6.29

If in the opinion of the Engineer, the rate of progress appears at any time to be insufficient to enable the work to be completed within the time specified, he may order the Contractor to speed the prosecution of his work by supplying additional men, materials, and equipment, by following different methods of construction, or otherwise. Failure of the Engineer to so order the Contractor shall not relieve the Contractor from his obligation to complete the work within the time specified, nor shall compliance with the order subject the Owner to claim for extra compensation.

**G 6.30**      **RISKS AND INDEMNIFICATIONS ASSUMED BY CONTRACTOR** - Supplement to General Conditions Article F 6.30

The Contractor shall be the insurer of the Owner, its officers, agents and employees, against the following distinct and several risks, whether they arise from acts or omissions of the Contractor, of the Owner, of the Engineer, or of third persons, excepting only risks which result solely from affirmative, willful acts of the Owner, subsequent to the acceptance of his proposal:

1. The risk of loss or damage to the work prior to final payment. In the event of such loss or damage, the Contractor shall forthwith repair, replace and make good the work without cost to the Owner.

2. The risk of injuries or damages, direct or consequential, to the Owner, its officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the work, whether sustained before or after final payment. The Contractor shall indemnify the Owner, its officers, agents and employees for all such injuries and damages and for all loss suffered by reason thereof.
3. The risk of claims and demands, just or unjust, by third persons against the Owner, its officers, agents and employees, arising or alleged to arise out of the performance of the work as well as for the use of patents, patented articles, equipment or process, or a combination of any and all of the aforesaid, whether made before or after final payment. The present undertaking of the Contractor shall be construed to extend to and to include claims and demands made or threatened to be made by third persons against the Owner or any of its employees or agents. The Contractor shall indemnify the Owner, its officers, agents and employees, against and from all such claims and demands and for all loss and expense incurred by it and them in the defense, settlement or satisfaction thereof.

Neither the acceptance of the completed work nor payment therefore shall release the Contractor from his obligation under this Article, provided, however, that the risks and indemnifications assumed by the Contractor shall not insure directly or indirectly to the benefit of any insurer under policies of insurance issued in compliance with this Contract.

**G 9.4.1**      **DRAWINGS MAY BE SUPPLEMENTED** - Addition to General Conditions Article F 9.4

The Contract Drawings may be supplemented from time to time by the Engineer and/or as the work progresses, by the Contractor, subject to approval by the Engineer, and as may be required to illustrate the work.

Supplementary drawings when issued by the Engineer will be furnished to the Contractor or Contractors affected by such drawings.

Supplementary drawings when issued by the Contractor shall, after approval by the Engineer, be furnished in sufficient quantity to those other Contractors, if any there be, who in the opinion of the Engineer are affected by such drawings at no additional cost to the Owner.

**G 9.11.1**      **DISPUTED WORK - NOTICE OF CLAIMS FOR DAMAGES** - Addition to General Conditions Article F 9.11

If the Contractor is of the opinion that any work required, necessitated, or ordered violates or conflicts with, or is not required by the terms and provisions of this Contract, he must promptly within five calendar days after being directed to perform such work, notify the Engineer in writing, of his contentions with respect thereto and request a final determination thereon. If the Engineer determines that the work in question is contract and not extra work, or that the order complained of is proper, he will direct the Contractor in writing to proceed and the Contractor shall promptly comply.

In order, however, to preserve his right to claim compensation for such work or damages resulting from such compliance, the Contractor must, within seven (7) calendar days after receiving notice of the Engineer's determination and direction notify the Engineer, in writing, that the work is being performed or that the determination and direction is being complied with, under protest. Failure of the Contractor to so notify shall be deemed as a waiver of claim for extra compensation or damages thereof.

On or before the fifteenth day of the month succeeding that in which any such damage shall have been sustained, or alleged to have been sustained, the Contractor shall file with the Engineer an itemized statement setting forth in detail the hours, rates, amounts, etc., of the labor, material, equipment and other costs of such damages incurred during the preceding month, and, unless such statement shall be made as thus required, his claim for compensation shall be forfeited and invalidated and he shall not be entitled to payment on account of any such damage.

In addition to the foregoing statements, the Contractor shall, upon notice from the Owner, produce for examination by duly appointed representative of the Owner, all his books of accounts,

bills, invoices, payrolls, sub-contracts, timebooks, daily records, canceled checks, showing all of his acts and transactions in connection with or relating to or arising by reason of this contract, and submit himself, his agents, servants and employees for examination under oath by any duly appointed representative designated by the Owner to investigate claims made against the Owner. Unless the aforesaid statements shall be made and filed within the time aforesaid and the aforesaid records submitted for examination and the Contractor, his agents, servants, and employees submit themselves for examination as aforesaid, the Owner shall be released from all claims arising under, relating to or by reason of this contract, the provisions of this contract. It is further stipulated and agreed that no person has power to waive any of the foregoing provisions, and that in any action against the Owner to recover any sum in excess of the sums certified by the Engineer to be due under or by reason of this contract, the Contractor must allege in his complaint and prove, at the trial, compliance with the provisions of this article.

Before the final acceptance of the work by the Owner, all matters of dispute must be adjusted to the mutual satisfaction of the parties thereto. Determinations and decisions in case any questions shall arise, shall constitute a condition precedent to the right of the Contractor to receive the money therefore, until the matter in question has been adjusted.

**G 11.1.1**      **ENGINEERING CHARGES** - Added to General Conditions Article F11.1

When the work embraced in the Contract is not completed within the contract time, engineering and inspection expenses incurred by the Owner upon the work from the completion date originally fixed in the Contract after taking into consideration any approved time extensions, to the final date of completion of the work and or overtime expenses for inspection after or before established work hours, may be charged to the Contractor and be deducted from the final moneys due the Contractor. Extra work or supplemental contract work added to the original contract, as well as extenuating circumstances beyond the control of the Contractor, will be given due consideration of the Owner before assessing engineering and inspection charges against the Contractor. Such deduction may be in addition to deductions for Liquidated Damages.

**G 12.0**      **TIME EXTENSIONS** - Addition to General Conditions Article F 12

The Engineer reserves the right to suspend the work wholly or in part for such a period or periods as he may deem necessary, when in his opinion weather or other circumstances or conditions are unsuitable for the proper prosecution of the work.

In addition, the Contractor may, of his own volition, request the right to suspend work for reasons of a long period of inclement weather, for delays beyond his control in obtaining key material and equipment or otherwise. The Engineer may permit such suspension subject to the approval of the Owner or may reject the Contractor's application and direct him to proceed with the work.

If, due to a continuation of unsatisfactory weather or other conditions, it becomes necessary to close the work, the Contractor shall at his own sole cost and expense perform such incidental work as may be required to protect the work already completed and to provide means for the full and safe use of the area involved in his operations.

An extension of time of completion may be considered provided that in the opinion of the Engineer, work of other Contractors in adjacent areas or work of public utility corporations and other public or private parties or other valid causes have ACTUALLY DELAYED or will delay completion and further provided that the Contractor has diligently complied with those sections of the Contract Documents governing the progress of the work and cooperation with other Contractors. No allowance will be recommended for ordinary delays incident to work of this character. No claims for extension of time will be considered unless the Contractor shall have filed either a written claim or a written notice of intent to make such claim within thirty (30) calendar days after the start of the condition or cause upon which said claim is based.

The Owner will be the final judge of the validity of claims for time extensions, and the time granted, if any, will be that period that the Owner considers as an actual delay sufficient to cause the postponement of the completion of this Contract. The time extension granted may not coincide with the number of days requested by the Contractor for that particular item because there may be other items of work under construction at the same time on which claims merit similar consideration. In other words, concurrent delays will not be allowed in full by the Owner.

Time extensions when and if allowed by the Owner will be in lieu of money damages, and if accepted by the Contractor, automatically gives the Owner and Engineer due notice of the intent of waiving all claims for money damages.

**G 12.3.1** **TIME OF ESSENCE** - Addition to General Conditions Article F 12.3

Inasmuch as the provision of this contract relating to the time for performance and completion of the work are for the purpose of enabling the Owner to proceed with the construction of a public improvement in accordance with a predetermined program, such provisions are of the essence in the contract.

**G 14.0** **COMPENSATION - NON-DIRECT PAYMENT ITEMS** - Addition to General Conditions Article F 14

No direct payment will be made for work done or materials furnished to comply with the requirements of the General Conditions or the Information for Bidders or any other general section of these specifications (except where expressly stated elsewhere), but all compensation shall be considered to have been included in the prices bid for the various bid items.

**G 14.2.1** **ESTIMATES AND PAYMENTS** - The following is added to General Conditions Article F 14.2

The Contractor may, from time to time as the work progresses but not more often than once a month, on such days as the Owner may fix, make an approximate estimate in writing to the Engineer such as in the opinion shall be just and fair, of the amount and value of the work done and materials incorporated into the work since the commencement of the contract by the Contractor in his performance of the same. At the option of the Engineer allowances may be included in such estimates for material delivered and properly stored on the site preparatory to use in the work. Allowances for such material shall not exceed ninety (90) percent of the cost of the material but such percentage up to this limit shall be at the sole discretion of the Engineer. The Engineer shall and will review the Contractor's estimate, and when verified to be just and fair shall approve same for payment by the Owner.

The amount of any estimate, based upon the unit prices contained in the proposal and including any allowance for approved extra work less a fixed percentage retained and less the total sum previously paid on former estimates shall constitute the payment due and to be made to the Contractor within a reasonable time after the date of such estimate (except in case of Final Estimate). On all estimates except the final, the fixed percentage retained shall be ten (10) percent, such retained amounts being held until the final estimates except as hereafter provided.

Per N.J.S.A. 40A:11, the New Jersey Local Public Contracts Law, and particularly N.J.S.A. 40A:11-16.1 and 40A:11-16.3, when the total price of the Contract exceeds \$100,000.00, maximum of two percent (2%) withheld from the amount due on partial (progress) payments pending completion of the contract or agreement.

Any estimate shall be subject to correction in any succeeding estimate.

The final estimate will be prepared after the work has been tested and approved by the Engineer as required elsewhere herein and after acceptance has been given by the Owner. The fixed percentage retained on the final estimate for the guarantee periods shall be five (5) percent of the total value of the work done and materials incorporated therein including any agreed compensation for any authorized extra work, except as herein after provided.

Payment on the final estimate shall not be made prior to the expiration of thirty-one (31) days from the date of acceptance of the work by the Owner.

Release of the retained five percent less whatever expenditures that may have been necessary by the Owner for and incidental to repairs or replacements shall be made at the expiration of one (1) year from the date of acceptance of the work by the Owner.

All estimates, including the final, will be made for actual quantities of work performed and materials in place as determined by the measurements of the Engineer, and this determination as

to the quantities involved in the contract shall be accepted as final, conclusive, and binding upon the Contractor. However, the contractor may check such measurements if he so desires.

An increase or decrease in quantity for any unit price item of the proposal shall not be regarded as a sufficient ground for an increase or decrease in the unit price, nor in the time allowed for the completion of the work.

For computation of the quantities to be paid for under the various items of this contract, it is agreed that the planimeter shall be considered an instrument of precision and quantities computed from areas obtained by its use shall be accepted by all parties hereto as accurate.

In the event the total price of the Contract exceeds \$100,000.00, retainage through the course of the project progress payments is limited to two percent (2%) and same will be released to the contractor upon completion of all the requirements and terms of the contract agreement. In lieu of the one year five percent (5%) cash maintenance bond above described the contractor shall provide a one year-fifteen percent (15%) maintenance guarantee bond commencing the date of final project acceptance by the Owner and issued by a surety acceptable to the Owner and conforming with the requirements of General Conditions F 5.1, F 5.2.

**G 14.4**      **PROGRESS PAYMENTS** – The third section of Paragraph 14.4 General Conditions shall be modified as follows:

"The Owner shall, within thirty days of presentations to him of an approved application of payment, pay the contractor the amount approved by the Engineer".

**G 14.15.1**    **ACCEPTANCE OF WORK BY OWNER NOT A WAIVER OF CONTRACT** - General Conditions Article F 14.15 is supplemented as follows:

Neither the acceptance of the work or any part thereof, nor any payment therefore, nor any order or certificate of the Engineer, or any officer, agent or employee of the Owner, nor any extension of time, nor any possession taken by the Owner, nor any permission or direction to continue with the performance or work, nor any performance by the Owner of any of the Contractor's duties or obligations, nor any other thing done or omitted to be done by the Owner, its officers, agents or employees, shall be deemed to be a waiver of any provision of this Contract or of any rights or remedies to which the Owner may be entitled because of any breach thereof, EXCEPTING ONLY A RESOLUTION BY THE OWNER PROVIDING EXPRESSLY FOR SUCH WAIVER. No cancellation, revision, or annulment hereof in whole or as to any part of the work, because of any breach hereof, shall be deemed a waiver of any money damages to which the Owner may be entitled because of such breach. Moreover no waiver by the Owner of any breach of this Contract shall be deemed to be a waiver of any other or any subsequent breach.

**G 17.2.3**      **TIME OF COMPLETION** - Addition to General Conditions Article F 17.2

All work (except such items as specifically ordered or permitted by the Engineer in writing to be done at a later date) called for under the provisions of this Contract shall be completed within the number of consecutive calendar days or working days stated in the proposal, after the time of starting set forth in Articles F 2.3 and G 2.3.

**G 18.1**      **NEW JERSEY STATUTE P.L. 1975, C.127 - AFFIRMATIVE ACTION**

During the performance of this Contract, the Contractor agrees as follows:

- a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up-grading, 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 Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

- b. The contractor or subcontractor, where applicable 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 age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
- c. The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.
- e. When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2.

The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

- (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:531 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
- (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
- (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
- (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
  - (i) The contractor or subcontractor shall interview the referred minority or women worker.
  - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
  - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
  - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
- (7) To keep a complete and accurate record of all requests made for the referral of

workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

- (C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA 201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

- (D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

## **G 18.2**

### **MINIMUM WAGE RATES**

The Contractor and all Sub-contractors shall pay to all laborers, mechanics, operators, and etc. employed for the construction covered by this Contract not less than the minimum prevailing rates of pay and benefits as determined by the New Jersey Department of Labor and Industry. A copy of these rates are on file at the office of the Engineer for review by all bidders. The Contractor is responsible to comply with the regulations of the Department of Labor and Industry and shall provide that Department with the information required. Upon award of the Contract, the Contractor shall request from the Engineer a copy of the prevailing wage rates which is to be posted in a prominent and easily accessible place at the site of the work or at such places as are used to pay workmen their wages.

In addition, and ONLY IF THE PROJECT IS PARTIALLY OR TOTALLY FUNDED WITH FEDERAL FUNDS, the Contractor and all sub-contractors, agree to pay all laborers, and etc. employed for the work of this contract not less than the minimum prevailing rates of pay and benefits as determined by the Federal Government applicable to the general location of the project.

Prevailing minimum wage rates applicable to this project at the time of award will be incorporated in these documents on the following pages and form a part of the Contract Agreement.

**G 18.3****CERTIFIED PAYROLL RECORDS**

The Contractor and all Subcontractors shall comply with all provisions of N.J.A.C. 12:60-1 et seq. and specifically, the public work employers (Contractors and Subcontractors) shall submit to the Owner certified payroll records each payroll period within 10 days of the payment of wages. A certified payroll record is defined as "a payroll record which is attested to by the employer, or the Owner of the company doing business as the employer, or a corporate officer of such company, or an authorized agent of the employer."

The Owner shall then receive, file, and store in a depository of their choice, said certified payroll records and shall make said records available for inspection during normal business hours.

A copy of the certified payroll form for submission of the payroll records may be obtained by contacting the Department of Labor, Division of Workplace Standards at (609) 292-2283.

SECTION H

ENUMERATION OF PLANS AND SPECIFICATIONS

The following are plans (also called drawings) which form part of this contract:

GENERAL TITLE

TOWNSHIP OF FRANKLN  
SOMERSET COUNTY, NEW JERSEY

**HARVEY J. INMAN PARK TENNIS COURT IMPROVEMENTS**

Contract No. PFR00208.01

FILE NUMBER PFR00208.01

<u>SHEET NO.</u>	<u>SPECIFIC TITLE</u>
1 of 8	Title Sheet
2 of 8	Demolition Plan
3 of 8	Construction Plan
4 of 8	Soil Erosion and Sediment Control Plan
5 of 8	Soil Management and Preparation Plan
6 of 8	Soil Erosion and Sediment Control Notes
7 of 8	Traffic Control and S.E.S.C. Details
8 of 8	Construction Details

TECHNICAL SPECIFICATIONS  
CONSIST OF DIVISIONS

1 - General Requirements

2 - Site Work

APPENDIX AAMERICANS WITH DISABILITIES ACT OF 1990  
Equal Opportunity for Individuals with Disability

The contractor and the **Township of Franklin**, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disability Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the owner shall expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance o this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relive the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

# **New Jersey Department of Labor Prevailing Wage Rate Determination**

(Bidders can find prevailing wage rate information at  
[http://lwd.dol.state.nj.us/labor/wagehour/wagerate/pwr\\_construction.html](http://lwd.dol.state.nj.us/labor/wagehour/wagerate/pwr_construction.html)  
Hard copy will be provided at the time of award.)

**SPECIFICATIONS**

**DIVISION 1 - GENERAL REQUIREMENTS**

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## SPECIFICATIONS

### DIVISION 1 - GENERAL REQUIREMENTS

#### **1-2.6**      **PROGRESS SCHEDULE.** - Supplement to General Conditions Article F 2.6

Within ten (10) days after the award of the Contract, the Contractor shall submit in writing a proposed program of operation, showing clearly how he proposes to conduct the work so as to bring about the completion of his work within the time limit specified. This program shall outline the proposed sequence of operations, the rates of progress and the dates when each part of his work will be completed. The work under this Contract shall, in general, be so scheduled that the work will be coordinated with work by others on adjacent contracts, if any.

The Contractor shall accompany this schedule with a list of delivery dates for materials and equipment.

This plan of operation may be adjusted and revised as the work progresses, but such changes must have at all times the approval of the Engineer.

In any event it shall be the purpose of the progress schedule to guide the course of the work, and strict adherence to it will be demanded by the Engineer.

If all or part of the work of the Contract will be substantially delayed by the extremes of winter weather, the Contractor shall anticipate such delays, shall prepare his progress schedule in a manner that will minimize the overall effect of such anticipated weather delays, and shall periodically update said schedule in accordance with actual weather delays experienced to that date and anticipated for any subsequent period.

#### **1-4.1**      **BOUNDARIES OF THE WORK.** - Supplement to General Conditions Article F 4.1

The Contractor shall obtain from the Owner all information regarding the areas that may be available for his operations and to what extent and for what period of time he may occupy them.

He shall also obtain from the Municipality, County and/or NJDOT required provisions to provide and maintain traffic along Municipal or County Roads and/or State or Federal Highways approaching or within the site or sites of his work, and he shall comply with the requirements of these public agencies.

#### **1-4.4**      **LINES AND GRADES.** - Supplement to General Conditions Article F 4.4

All work under this Contract shall be constructed in accordance with the lines and grades shown on the Plans or as given by the Engineer. The full responsibility for keeping alignment and grade shall rest upon the Contractor.

Primary reference points for the laying out of the work shall be provided by the Owner.

Lines and grades will be set by a N.J. Licensed Land Surveyor employed by, or retained by the Contractor as the work progresses and will be located to cause as little inconvenience to the prosecution of the work as possible.

The Contractor shall so place excavation and other materials so as to cause no inconvenience in the use of the lines and grades established. He shall remove any obstructions placed by him contrary to this provision.

The Contractor shall furnish and maintain at his own expense, stakes, and other such materials, and give such assistance, including qualified helpers, as may be required for setting line and checking grade marks.

The Contractor shall provide grade sheets at least two (2) working days in advance of the time same will be needed for review, and shall keep the Engineer informed of daily work schedules so that all necessary measurements may be made for record and payment with a minimum of inconvenience to the Engineer or of delay to the Contractor.

It is the intention not to delay the work for the giving of lines and grades, but, when necessary, working operations shall be suspended for such reasonable times as Contractor's surveyor may require for this purpose.

The Contractor shall safeguard all points, stakes, grade marks, monuments and bench marks made or established on the work, re-establish them and bear the entire expense of rectifying work improperly installed due to not maintaining or protecting or for removing without authorization such established points, stakes, and marks. Replacement of disturbed or destroyed Principal reference points shall be completed by a N.J. Licensed Land Surveyor, acceptable to the Owner and Engineer, and at the Contractor's expense.

**1-6.3**      **WORK IN BAD WEATHER.** - Supplement to General Conditions Article F 6.3

During freezing, stormy or inclement weather, the Contractor shall provide heat, shelter, and other facilities as directed and necessary to maintain the progress schedule and all work shall be done in a manner to secure first class construction throughout.

**1-6.4.1**    **CONTRACTOR'S OFFICE.** - Supplement to General Conditions Article F 6.4

Unless specifically waived in the Proposal, the Contractor shall erect, furnish and maintain a field office, with a telephone at the site during the entire period of construction. He or an authorized agent shall be present at said office at all times or at definite times while his work is in progress. Readily accessible copies of both the Contract Documents and the latest approved working drawings shall be kept at said field office. This office shall be suitably heated and shall be equipped with proper sanitary facilities.

**1-6.4.2**    **WATER AND ELECTRICITY.** - Supplement to General Conditions Article F 6.4

The Contractor shall unless specified, provide the necessary water supply at his own expense and shall pay for all water used.

The Contractor shall unless otherwise specified, provide, at his own expense, adequate temporary lighting and electrical power facilities if required for the proper prosecution and inspection of the work. If, in the opinion of the Engineer, these facilities are inadequate, the Contractor shall provide facilities which are satisfactory to the Engineer.

**1-6.4.3**    **HEATING** - Supplement to General Conditions Article F 6.4

The Contractor shall provide temporary heat, whenever required on account of work being carried on during cold weather and to prevent freezing of water pipes and other damage to the work. Heat shall be furnished when and as directed and at the Contractor's own expense.

**1-6.4.4**    **TRAFFIC PROTECTION AND PARKING OF CARS/ EQUIPMENT** - Supplement to General Conditions Article F 6.4

The Contractor shall protect all traffic and parked cars, when lawfully parked, and shall see to it that the cars belonging to his workmen, his construction equipment and/or his stockpiles are parked in areas permitted by the municipal authorities.

He shall take particular care to provide access to adjacent property, both for ordinary traffic and emergency vehicles. Access to fire hydrants shall be kept clear at all times.

Unless expressly authorized in advance and in writing, the Contractor shall maintain a minimum of one lane of traffic through the project area controlled by competent Flagmen as necessary. IMMEDIATE clearance through the project area shall be furnished for Fire/Rescue/Police Vehicles and School Buses. If necessary, work shall be temporarily suspended to permit the immediate passage of Fire/Rescue/Police or other emergency vehicles and/or school buses.

Local and through traffic shall be maintained at all times unless the Owner approves a detour route for a duration of time.

Whenever it is necessary to maintain only a single line of traffic, the contractor shall furnish and employ sufficient competent traffic directors during the day and night to adequately guide and protect traffic.

The Contractor will be required to prevent the formation and flying of dust to the satisfaction of the Engineer by the use of water or chemicals.

The Contractor shall erect and maintain barricades, danger signals and warning signs at working sites, closed roads, intersections and other places of danger to traffic or to the completed work as directed and approved by the Engineer. Each barricade shall be provided with red flashing lights battery operated not more than five feet apart and not less than three lights shall be used.

Where specific detour routes or traffic protection signs and equipment are specified or required by the plans, the Contractor will provide same along with all other signage equipment and flagmen necessary to satisfactorily protect and safely coordinate traffic.

Vehicular and pedestrian traffic on streets shall be maintained and protected at all times, and all operations in or adjacent to streets, sidewalks, and walkways shall be conducted and controlled accordingly.

The Contractor shall, for the protection of the traveling public and his personnel, familiarize himself and adhere strictly to the requirements of these Specifications and to the requirements of Title 39, the Motor Vehicle Code of the State of New Jersey, wherever it shall pertain to necessary and required precautionary measures regarding the type of work being done.

The cost of protection of traffic, parking of cars/ equipment, and stockpiles as above described shall be included in the prices bid for the various items scheduled in the Proposal and shall be reviewed with the Municipal Authorities prior to submitting same.

**1-6.4.5**      **SURFACE DRAINAGE.** - Supplement to General Conditions Article F 6.4

The Contractor shall furnish all necessary equipment, shall take all necessary precautions, and shall assume the entire cost of handling any surface drainage occurring during the construction of the work. The manner of providing for these flows shall meet the approval of the Engineer and the entire cost of said work shall be deemed included in the unit or lump sum prices for the various items of work to be done under the Contract.

**1-6.4.6**      **ENGINEER'S FIELD OFFICE.** - Supplement to General Conditions Article F 6.4

If not waived by the terms of the proposal and contract agreement, the contractor shall furnish Engineer's Field Office, provide the necessary utilities for same, including heat, light, potable water, power, telephone, toilet facilities, janitorial supplies and services, and waste disposal, and shall pay all costs associated with same and fully complying with the following particulars. No separate payment will be made for these facilities and all costs related to same are to be included in the respective bid prices in the Proposal.

**1-6.5**      **DOMESTIC MATERIAL** - Supplement to General Conditions Article F 6.5

The contractor during the course of this contract agrees to use, supply or deliver only such manufactured articles, materials and supplies as have been manufactured in the United States substantially from articles, materials and supplies mined, produced or manufactured in the United States, wherever available.

**1-6.17.1**      **SANITARY-REGULATIONS.** - Supplement to General Conditions Article F 6.17

Toilet accommodations properly secluded from observation shall be erected and maintained by the Contractor, in such a manner and in such locations as approved by the Board of Health, and their use shall be strictly enforced.

The building of shanties or other structures for housing the men, tools, machinery or supplies, will be permitted only at approved places and the sanitary conditions of the ground in and at such shanties or other structures must be at all times maintained in a satisfactory manner.

**1-6.17.2**      **FINAL CLEANING.** - Supplement to General Conditions Article F 6.17

At the conclusion of the work, all erection plant, tools, temporary structures, and materials belonging to the Contractor shall be promptly taken away, and he shall remove and promptly dispose of all water, dirt, rubbish, or any other foreign substances.

The Contract shall thoroughly clean all equipment and materials installed by him and shall deliver over such materials and equipment undamaged in a bright, clean, polished, and new appearing condition.

**1-6.20.2**      **PROTECTION OF WORK UNTIL COMPLETION.** - Supplement to General Conditions Article F 6.20.2

During performance and up to the date of final acceptance, the Contractor shall be under an absolute obligation to protect the finished and unfinished work against any damage, loss or injury. The Contractor shall take proper precautions to protect the finished work from loss or damage, pending completion and the acceptance of all the work included in the entire Contract, provided that such precaution shall not relieve the Contractor from any and all liability and responsibility for

loss or damage to the work occurring before acceptance by the Owner. Such loss or damage shall be at the risk of and borne by the Contractor, whether arising from acts or omissions of the Contractor or others, or from floods, storms, high tides, or otherwise. In the event of any such loss or damage, the contractor shall forthwith repair, replace and make good the work without additional compensation or extension of time therefore, except as may be otherwise provided herein.

These provisions shall not be deemed to create any new right of action in favor of third parties against the Contractor or Owner.

The contractor shall provide for the removal of all dirt spilled from the trucks on existing pavements over which it is hauled, or which is washed or otherwise deposited thereon by reason of his work, whenever, in the opinion of the Engineer, the accumulation is sufficient to cause the formation of mud, interfere with drainage or to create a traffic hazard.

Costs incidental to the maintenance of existing roadways as herein described, shall not be paid for under any specific item but shall be included in the unit prices bid for other items scheduled in the Proposal. In the event that the contractor fails to maintain safe traffic conditions and job conditions, the Municipality may after failure of the contractor to provide safe traffic conditions, hire guards or take such precautions to safeguard traffic, and the cost of same shall be deducted from payment due the contractor.

**1-6.20.3.1**      **CARE OF PUBLIC AND PRIVATE PROPERTY** - Supplement to General Conditions Article F 6.20.3

The Contractor shall preserve from damage all property along the line of the work, or which is in the vicinity of or is in any way affected by the work, the removal or destruction of which is not called for by the Plans. This applies to the public utilities, railroads, trees, monuments, fences, pipe and underground structures, public streets (except natural wear and tear of streets resulting from legitimate use thereof by the Contractor), and wherever such property is damaged due to the activities of the Contractor, it shall be immediately restored to a first class condition by the Contractor and at his own expense.

In case of failure on the part of the Contractor to restore such property, or make good such damage or injury, the Owner may, upon forty-eight hours notice, proceed to repair, rebuild, or otherwise restore such property as may be deemed necessary, and the cost thereof will be deducted from any moneys due or which may become due the Contractor under this Contract.

Nothing in this clause shall prevent the Contractor from receiving proper compensation for his costs incurred because of the removal or replacement of any public or private property, when this is made necessary by alteration of grade or alignment, or any such work authorized by the Owner, provided that such property has not been damaged through fault of the Contractor, his employees, or agents.

**1-6.20.3.2**      **PROTECTION AND REPLACEMENT OF SUBSURFACE STRUCTURES AND UTILITIES** - Supplement to General Conditions Article F 6.20.3

The plans may show certain but not all subsurface structures known to exist in the working area. The Contractor shall particularly note that the indicated locations of subsurface water, gas, electric, telephone, sewerage and drainage systems in the area may be quite different from their actual locations and that there may be some subsurface structure or utility encountered that is not shown on the plans. Therefore, it shall be his responsibility to proceed with caution in executing the work, so as to prevent undue interruptions of utility service to property owners and damage to structures or utilities, or injury to workmen or others.

The Contractor will be held responsible FOR ALL DAMAGES to all utilities or other underground or surface structures whether or not they are shown on the Contract Drawings, and he shall pay all costs for protecting them or for repairing and/or replacing them IF THEY ARE DAMAGED AS A RESULT OF OPERATIONS UNDER THIS CONTRACT.

In the event that UNDERGROUND STRUCTURE OR UTILITIES are disclosed by the Contractor's operations THAT OCCUPY THE SAME SPACE AS REQUIRED BY INSTALLATIONS UNDER THIS CONTRACT, the Contractor shall notify the Engineer and await his orders concerning the removal and replacement of said structures or utilities. The procedures regarding compensation in this event will be as follows:

- a. Where it develops that the utility company will remove and relocate the structure or utility at its own expense and with its own forces, no compensation therefore will be due the Contractor.

- b. Where the utility company will not assume the expense but exercises its right to perform the work with its own forces, the Contractor shall pay the cost incurred upon being presented with a bill for the same, and will in turn be reimbursed by the Owner for the amount paid thereon plus five percent (5%).
- c. Where the Contractor has to perform the work of removal and relocation with his own forces, he shall be reimbursed as set forth under Article G 10.1.1, entitled, "Extra Work - Increased Compensation". This provision shall likewise apply to instances under (a) and (b) above, where the contractor's forces or equipment are required for only a portion of the work.

Wherever gas mains, petro-chemical mains, electrical or heating ducts, electric, telephone, or telegraph poles or ducts, private or municipal water mains are encountered and service may be interrupted, the Contractor shall keep the Owner utility company or department fully informed in advance of any changes he desires to make. The Contractor shall cooperate with the utility company or department in the removal, relocation, and replacement of such structures, so as to avoid all unnecessary interruption of service. He shall arrange with the owners of the utilities for this work to be done.

If, in the opinion of the Engineer, it is necessary to install temporary lines, to prevent interruptions in utility service to residents, the Contractor shall install or have installed the temporary lines necessary to provide service. He shall maintain and protect such lines during the course of the work and shall remove them when permanent connections have been made unless otherwise directed by the Engineer. The costs therefore shall be assumed by the Contractor in all cases excepting only where the structure or utility requiring such temporary replacement, occupies the same space as that needed for installations under this Contract, in which event the procedures for compensation listed under (a), (b) and (c) in this Article will be followed.

Such work shall be performed to the satisfaction of the Engineer.

Where the Owner's storm drains, sewer lines, or water mains are encountered and repair, replacement, or relocation is necessary before work can proceed, the Contractor shall carry out the work promptly as directed by the Engineer.

#### 1-6.20.4

#### **ACCIDENT PREVENTION AND FIRST AID** - Supplement to General Condition F 6.20

Precautions shall be exercised at all times for the protection of persons and property. The safety provisions and applicable laws, building and construction codes shall be observed. Machinery and equipment shall be guarded and all hazards eliminated in accordance with safety provisions of Construction Industry OSHA Safety and Health Standards (29CFR 1926/1910), including amendments and supplements to date, published by the U.S. Department of Labor, Occupational Safety and Health Administration, to the extent that such provisions are not in contravention of applicable law. The Contractor shall provide suitable barricades, red lights, "Danger" or "Caution" signs and watchmen at all places where the work constitutes in any way a hazard to the public, or workmen.

The Contractor shall keep upon the site, at each location where work is in progress, a completely equipped first-aid kit and shall provide ready access thereto at all times when men are employed on the work.

#### **1-6.20.4.1** **CONTRACTOR'S SIGNS.** - Supplement to General Conditions Article F 6.20

The Contractor shall erect and maintain safety signs, temporary barricades, temporary fences, and take all precautions to guard against all dangers and hazards, as are necessary in the opinion of the Engineer in the interest of the public health and safety.

Signs shall be of suitable size to be readily seen and shall be black letters on orange background. Barricades, drums and like items shall be standard orange and white stripped. Warning and detour signs and barricades and other safety devices shall be reflectorized painted or lighted, and maintained.

#### **1-6.20.4.2** **WATCHMEN & FLAGMEN** - Supplement to General Conditions Article F 6.20

Watchmen and/or Flagmen shall be furnished and shall be on duty appropriate to carry out the Contractor's responsibility for safety and protection.

**1-6.23.1**     **WORKING DRAWINGS** - Addition to General Conditions Article F 6.23

The Contractor shall promptly prepare and submit layout, detail, and shop drawings for such parts of the work as specified hereafter under the specifications for materials, workmanship and Contract Items. These drawings will be known as "Working Drawings."

The drawings shall be numbered to coincide with the Division and article of the specifications related to same, and consecutively numbered for all individual drawings for a particular item or items related to the particular division and article and shall accurately and distinctly present the following:

- a. All work and erection dimensions.
- b. Arrangement and sectional views.
- c. Necessary details, including complete information or making connections between work under this Contract and work under other Contracts.
- d. Kinds of materials and finishes.
- e. Parts list and description thereof.

Each drawing shall be dated and shall contain the name of the project, contract number, Contract Item and paragraph number, names of equipment or materials, and the locations at which the equipment or materials are to be installed in the work. The Engineer may decline to consider any working drawing that does not contain complete data on the work and full information on related matters.

If the working drawings show departures from the Contract requirements, the Contractor shall make specific mention thereof in his letter of submittal and on the subject drawing or drawings. Otherwise, approval of such submittals shall not constitute approval of the departures. Approval of the drawings shall constitute approval of the subject matter thereof only and not of any structure, material equipment or apparatus shown or indicated. The approval of drawings will be general and shall not relieve the Contractor of responsibility for the accuracy of such drawings, nor for the proper fitting and construction of the work, nor for the furnishing of materials or work required by the Contract and not indicated on the drawings. No work called for by working drawings shall be done until the said drawings have been approved by the Engineer.

The procedure in seeking approval of working drawings shall be as follows:

- a. The contractor shall submit for approval two prints and one reproducible sepia copy, or six prints in the case of manufacturer's catalogue "cuts" and similar items, of each of the drawings to the Engineer. The submission of drawings shall be accomplished by letter of transmittal in duplicate, containing the name of the project, the name of the Contractor, the number of drawings, titles, and other requirements.
- b. When a drawing is satisfactory to the Engineer, it will be stamped "NO EXCEPTIONS TAKEN", be dated, and two copies thereof will be returned to the Contractor by letter.
- c. Should a drawing be unsatisfactory to the Engineer, he will stamp thereon "REVISE AND RESUBMIT", or "REJECTED", and will return one copy thereof to the contractor with the necessary corrections and changes indicated. The Contractor must make such corrections and changes and again submit two prints and one reproducible sepia copy of the drawing for approval, within five (5) working days of the date of rejection.

The Contractor shall revise and resubmit the working drawings as required by the Engineer, until "NO EXCEPTIONS TAKEN" thereof is obtained.

**1-13.2**     **INSPECTION.** - Supplement to General Conditions Article F 13.2

During the progress of the work and up to the date of final acceptance, the Contractor shall, at all times afford the representatives of the Owner every reasonable, safe and proper facility for inspecting the work done or being done at the site. The inspection of any work shall not relieve the Contractor of any of his obligations to perform proper and satisfactory work as herein specified. Finished or unfinished work found not to be in strict accordance with the Contract shall be replaced as directed by the Engineer, even though such work may have been previously approved and payment made therefore.

Failure or neglect on the part of the Engineer to condemn or reject bad or inferior work or materials shall not be construed to imply an acceptance of such work or materials, if it becomes evident at any time prior to the final acceptance of the work by the Owner, neither shall it be construed as barring the Owner at any subsequent time, from the recovery of damages or of such a sum of money as may be needed to build anew any portion of the work in which fraud was practiced or improper materials hidden, or used, wherever found.

**1-13.3**      **NOTICE OF INSPECTION TO BE GIVEN BY THE CONTRACTOR.** Supplement to General Conditions Article F 13.3

Certain items in the work will require special inspection by the Engineer and/or his inspectors. The Engineer will so specify these items to the Contractor during the course of the work; whereupon the Contractor, before proceeding with such specified items, shall give two working days written notice in advance to the Engineer, for the purpose of scheduling and providing such inspection service.

**1-13.10**      **STOPPING WORK** - Supplement to General Conditions Article F 13.10

The Engineer, acting as the Owner's representative, may stop, by written order, or a verbal order confirmed in writing within twenty-four hours, any work or any part of the work under the Contract if in his opinion the methods or materials employed are unsafe, improper or defective. When work is so stopped, it shall not be resumed until the methods or conditions are revised to the satisfaction of the Engineer, which must be signified in writing. Work may also be stopped by the Engineer or required to be postponed for an adequate period of time if the work interferes with, or unduly interrupts the operation of existing utilities. The Contractor is required to fully inform himself as to the nature and location of existing utilities within the project area, all locations of actual or potential interference, and coordinate the activities of affected utilities regarding any necessary temporary or permanent relocations to minimize possible or actual delay to planned progress.

**1-18.1**      **PROJECT PHOTOGRAPHS**

IF REQUIRED BY THE TERMS OF THE PROPOSAL and Contract Agreement, only, the Contractor shall provide three sets of acceptable, unretouched 8"x10" glossy, cloth mounted 8-1/2"x11" format, properly identified Pre-construction, Progress, and Final Construction Project Photographs comprising not less than the total number of individual prints stipulated in the proposal, with the cost of same included in the various prices bid. All project photographs shall conform with the following particulars and be delivered as required hereinafter.

**1-19.1**      **ABBREVIATIONS**

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

ACI	American Concrete Institute
ASTM	American Society for Testing Materials
ASCE	American Society of Civil Engineers
AWWA	American Water Works Association
ASME	American Society of Mechanical Engineers
NBS	National Bureau of Standards
AIEE	American Institute of Electrical Engineers
AASHO	American Association of State Highway Officials
NEMA	National Electrical Manufacturers Association
NEC	National Electric Code, latest edition
AISC	American Institute of Steel Construction
ASA	American Standards Association
AWS	American Welding Standards

**FEDERAL SPECIFICATIONS**

Federal Specifications issued by the Federal Supply Service of the General Services Administration, Washington, D.C.

**125 LB. AMERICAN STANDARD**

American Standard (ASA B16.1-1948) for Cast Iron Pipe Flanges and Flanged Fittings, Class 125

**USS GAGE**      United States Standard Gage

**N.J.D.O.T.S.S.** New Jersey Department of Transportation Standard Specifications, 2007 (as amended)

GPD	Gallons per day
MGD	Million gallons per day
GPM	Gallons per minute
CFS	Cubic feet per second

#### SPECIFICATION ABBREVIATIONS

Omission in wording. For brevity, some sentences are incomplete and such words and phrases as "the contractor shall", in conformity therewith, "shall be", "as noted on drawing", "according to the drawings", "a", "an", "the" and "all" which clutter up most specifications are sometimes omitted. They shall be supplied by the reader.

The contractor shall provide all items, articles, materials, operating methods lists, mentioned or scheduled on drawings or in specifications, including all labor, materials, equipment, incidentals necessary and required for their completion.

Wherever the words "approved", "satisfactory", "direct", "submitted", "inspected" or similar words or phrases are used, it shall be assumed that the word "Engineer" or one of their representatives follows the verb as the object of the clause, such as "approved by the Engineer" and "submitted to the Engineer".

References to the Standard Specifications or manufacturer's installation directions shall mean to the latest edition thereof, as published prior to the date of the agreement unless otherwise indicated.

Terminology: Words which have well known technical or trade meanings are used herein in accordance with such recognized meanings.

1. "Acceptable", "equal to", "proper", and other qualifying terms imply the judgment by the Architect/Engineer.
2. "Approved", or "Approval" means any equipment, item or material approved by the Architect/Engineer.
3. "Approved equal" means any equipment, item or material approved by the Architect/Engineer as equivalent to the specified equipment, item or material.
4. "Concealed" means work which is not exposed to view when the project is complete.
5. "Exposed" means work which remains exposed to view when the project is complete.
6. "Delivery" means unloading and storing at the site.
7. "Furnish" means to supply and deliver to the job.
8. "Governmental" means all Municipal, County, State and Federal government agencies.
9. "Install" means complete erection and connection of work.
10. "Piping" includes piping and all fittings, valves, hangers and other accessories related to piping.
11. "Provide" means "furnish" and "install" as defined above.
12. Words in singular form shall include as many such devices as are required to complete the work.

## 1-20

**EXISTING UTILITIES**

Prior to the start of any excavation work, the contractor shall contact the various utility companies in order to obtain firsthand information of underground piping and conduits:

Franklin Township Sewerage Authority 70 Commerce Avenue Somerset, NJ 08873	Franklin Township Water Department Carl Hauck – 732-249-7800 40 Churchill Avenue Somerset, NJ 08873
--	--

Cablevision of Raritan Valley 275 Centennial Avenue-CN 6805 Piscataway, NJ 08855	Franklin Township Fire Prevention 475 DeMott Lane Somerset, NJ 08873-2737
--	--

Right of Way Dept. Buckeye Pipe Line Company P.O. Box 368 Emmaus, PA 18049	Franklin Township Police Department 495 DeMott Lane Somerset, NJ 08873-2737
---	--

NJ Department of Transportation State of New Jersey 1035 Parkway Plaza Trenton, NJ 08625	Business Manager Comcast 273 Amwell Road Hillsborough, NJ 08844 (800) 266-2278
---	--

The County of Somerset P.O. Box 3000 Somerville, NJ 08876	PSE&G Co. 472 Weston Canal Road Somerset, NJ 08873 732.764.3003
---	--

Verizon Inc. NJ Gen. Tax Administration 540 Broad St. Room 305 Newark, NJ 07101	Sunoco Pipeline L.P. R.O.W. Dept. Montello Complex 525 Fritztown Road Sinking Spring, PA 19608
--	--

Middlebush Volunteer Fire Department  
Station 44  
21 Olcott Street  
PO Box 6687  
Somerset, NJ 08873  
(732) 873-2399  
(732) 873-1788 - Fax

**One number to call for various private utilities - 1-800-272-1000.**

**Division 2**  
**Site Work Specifications**

SPECIFICATIONS  
 DIVISION 2 - SITE WORK  
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## **SECTION 2A - SOIL EROSION AND SEDIMENT CONTROL**

### **WORK INCLUDED**

"Soil Erosion and Sediment Control" shall include the furnishing of all materials, labor, and equipment necessary for implementing proper measures to reasonably control soil erosion from construction operations and prevent excessive flow of sediment from the construction site. Such work may include the installation of water diversion structures, diversion ditches and sediment basins, seeding and mulching and sodding critical areas to provide temporary protection. All work shall be performed in accordance with the approved soil erosion plan and detail sheets.

### **MATERIALS**

Materials shall conform to the requirements of appropriate articles of "Standard for Soil Erosion and Sediment Control in New Jersey" as revised and adopted January 2014, and the Standard Specification for Road and Bridge Construction of the New Jersey Department of Transportation, 2007 as added to and amended. Such standard specifications are made part of the specifications by this reference and will not be repeated herein. In case of conflict between the above mentioned requirements, the standard requiring the higher in terms of quality of material and workmanship shall prevail.

### **METHODS OF CONSTRUCTION**

The work on soil erosion and sediment controls shall include but not be limited to the following:

1. The Somerset-Union Conservation District shall be notified in writing 48 hours in advance of any land disturbing activity.
2. All Soil Erosion and Sediment Control practices shall be installed prior to any major soil disturbances, or in their proper sequence and maintained until permanent protection is established.
3. Any Disturbed areas that will be left exposed more than 30 Days and not subject to construction traffic, will immediately receive a temporary seeding. If the season prevents the establishment of a temporary cover, the disturbed areas will be mulched with straw, or equivalent material, at a rate of two (2) tons per acre, according to the NJ State Standards.
4. Permanent Vegetation shall be seeded or sodded on all exposed areas within ten (10) days after final grading. Mulch will be used for protection until seeding is established.
5. All work shall be done in accordance with the NJ State Standards for Soil Erosion and Sediment Control in New Jersey.
6. A sub-base course will be applied immediately following rough grading and installation of improvements in order to stabilize streets, roads, driveways and parking areas. In areas where no utilities are present, the sub-base shall be installed within 15 days or preliminary grading.
7. Immediately following initial disturbance or rough grading all critical areas subject to erosion (i.e.: steep slopes, roadway embankments) will receive a temporary seeding combination with straw mulch or a suitable equivalent, at a rate of two (2) tons per acre, according to the NJ State Standards.
8. Any steep slopes receiving pipeline installation will be backfilled and stabilized daily, as the installation proceeds (i.e.: slopes greater than 3:1)
9. Traffic control Standards require the installation of a 50' x 30' x 6" pad of 1 ½" or 2" stone, at all construction driveways, immediately after initial site disturbance.
10. At the time when the site preparation for permanent vegetative stabilization is going to be accomplished, any soil that will not provide a suitable environment to support adequate vegetative ground cover, shall be removed or treated in such a way that will permanently adjust the soil conditions and render it suitable for vegetative ground cover. If the removal or treatment of the soil will not provide suitable conditions, non-vegetative means of permanent ground stabilization will have to be employed.
11. In that NJSA 4:24-39 et seq., requires that no Certificate of Occupancy be issued before the provisions of the Certified Plan for Soil Erosion and Sediment Control have been complied with for permanent measures, all site

work for site plans and all work around individual lots in subdivisions, will have to be completed prior to the District issuing a Report of Compliance for the issuance of a Certificate of Occupancy by the Municipality.

12. Conduit Outlet Protection must be installed at all required outfalls prior to the drainage system becoming operational.
13. Any changes to the Certified Soil Erosion and Sediment Control Plan will require the submission of revised Soil Erosion and Sediment Control Plans to the District for recertification. The revised plans must meet all current NJ State Soil Erosion & Soil Erosion & Sediment Control Standards.
14. The Somerset-Union Soil Conservation District shall be notified of any changes in ownership.
15. Mulching to the NJ Standards is required for obtaining a Conditional Report of Compliance. Conditionals are only issued when the season prohibits seeding.
16. Contractor is responsible for keeping all adjacent roads clean during life of construction project.
17. The developer shall be responsible for remediating any erosion or sediment problems that arise as a result of ongoing construction at the request of the Somerset-Union Soil Conservation District.
18. Hydro seeding is a two-step process. The first step includes seed, fertilizer, lime, etc., along with minimal amounts of mulch to promote consistency, good seed to soil contact, and give a visual indication of coverage. Upon completion of seeding operation, hydro –mulch shall be applied at a rate of 1500 lbs. per acre in second step. The use of hydro-mulch, as opposed to straw, is limited to optimum seeding dates as listed in the NJ Standards.
19. Unfiltered dewatering is not permitted. Necessary precautions must be taken during all dewatering operations to minimize soil transfer. Any dewatering methods used must be in accordance with the Standard of Dewatering.
20. All soil erosion and sediment control practices on this project shall be constructed in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey", or as approved for this project.
21. The smallest practicable area of land shall be exposed at any one time during the project and wherever feasible, natural vegetation shall be retained and protected. Stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion.
22. Schedule of construction operations shall be submitted to the Engineer for his approval.
23. A 72-hour notice shall be given to the Engineer prior to the start of construction or grading.
24. All soil erosion and sediment control devices shall be in place prior to any major soil disturbance or installed and removed in their proper sequence to allow for further operations on the site.
25. All sediment control structures shall be checked and maintained on a regular basis and all basins shall be cleaned periodically when storage capacity is affected by siltation.
26. During construction, any additional control measures as deemed necessary to prevent erosion or sediment beyond those measures shown on the approved plans shall be installed or employed at the direction of the Engineer.
27. After completion of construction, soil and sediment controls shall be left in place until all disturbed areas are stabilized.
28. Disturbed areas including roadway embankments shall be maintained in a rough graded condition and temporarily seeded and/or mulched until proper weather conditions exist for the establishment of permanent vegetative cover.
29. All areas disturbed by grading on which permanent or semi-permanent seeding or temporary seeding have not been made and all slopes with a grade steeper than 2:1 shall be treated by mulching. The mulch shall be applied at a rate of 2 tons per acre or equivalent measure, according to State standards.
30. All areas disturbed by grading including soil stockpiles, which will not be used or constructed upon a period greater than thirty (30) days shall be temporarily seeded and protected as required.
31. All areas disturbed by grading which will not be constructed upon within six (6) months are to be stabilized with a permanent type seeding and fertilizing.

- 32. All disturbed areas shall be topsoiled, limed and fertilized prior to both temporary and permanent seeding in conformance with charts and tables as set forth in the "Standards for Soil Erosion and Sediment Control in New Jersey".
- 33. Hay bales shall be deemed unacceptable filter material in areas greater than one-half (1/2) acre.
- 34. Access and haul roads shall be protected with stone access strips and coarse stone filters in appropriate locations.
- 35. Forging of streams shall be kept top a minimum and where frequent crossings are contemplated, temporary bridges or culverts shall be constructed.
- 36. Storm drainage inlets are to be either capped or protected by temporary filter devices to prevent the entry of sediment carried by runoff water until vegetation and/or paving is established as planned.
- 37. Wherever well points, pumps or other dewatering methods are used, care shall be taken to provide for the elimination of said dewatering.
- 38. All drainage swales shall be parabolic in shape unless otherwise noted and shall conform to SCS design and standards.
- 39. Drainage swales and other structures shall be located in the field so as to retain as much of the original vegetation as possible, especially large trees.
- 40. Soils having a pH of 4 or less or containing iron sulfide shall be covered with a minimum of 12 inches of soil having a pH of 5 or more before seedbed preparation. The added soil shall be limed as above.
- 41. Roadways shall be swept at the end of each working day by the contractor. When deemed necessary by the Engineer, the contractor shall have the roadways swept by a mechanical sweeper. Same shall be provided at no additional cost to the owner.

MEASUREMENT AND PAYMENT

Payment for this item will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Silt Fence (only where ordered)	Linear Foot
Construction Driveway, 12" Thick (only where ordered)	Square Yard

Payment for all other soil erosion measures as noted above or as may be required by the Soil Conservation District shall be included an all items requiring same.

Separate measurement and payment will not be made for soil compaction testing and de-compaction, and all materials, equipment and labor necessary for completing same, as required by the Local Soil Conservation District. Payment for same shall be included in the prices bid for all items requiring same.

## **SECTION 2B - MAINTENANCE AND PROTECTION OF TRAFFIC**

The Contractor shall provide traffic control in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways" (M.U.T.C.D.) prepared by the U.S. Department of Transportation, Federal Highway Administration as approved November 13, 1970, and as amended and/or superseded to date, is adopted as the Basic Standard. Supplementary requirements and details are provided as clarifications of the requirements of this Basic Standard.

The Contractor shall provide traffic safety services/provisions including all labor, materials and equipment necessary for the planning and implementation of maintenance and protection of vehicular and pedestrian traffic, provide for the safe and convenient passage of traffic, and provide all other appurtenances as specified below, as directed by the Engineer or as required by the Plans and Specifications to fulfill the intent of same.

Maintenance and protection of traffic shall include furnishing, assembling, placing and relocating traffic control devices, including pavement markers, and removing them when they are no longer required.

The Contractor is herein advised that there may be heavily traveled roadways due to crossover traffic to local roads, collector roads and arterial roads in addition to local residential, business and school traffic.

The Contractor will be responsible for installing all necessary traffic safety devices including, but not limited to, breakaway barricades, drums, flashers, warning signs and the like, to maintain an unobstructed flow of traffic throughout the time limit of the Contract. All traffic safety devices shall be in accordance with applicable Local, County and State traffic standards, as detailed in other applicable sections of these Specifications, and in accordance with the section of the New Jersey Department of Transportation Standard Specifications, latest revision.

The Contractor shall be fully responsible for the set-up and maintenance of the TCP except as required by Local and State law or as specifically set forth in the Contract.

The Municipality shall not be responsible for additional traffic control costs incurred beyond the number of working days as specified within the Contract Documents in accordance with the Local Public Contracts Law Section 17 of P.L. 1971, c. 198 (c.40A:11-17), when such a delay is caused by the Contractor and liquidated damages have been assessed.

Traffic control devices need not to be new but must be in good condition as approved. Traffic control devices, other than those shown on the approved traffic control plan, shall conform to the Manual on Uniform Traffic Control Devices. Prior to construction, traffic control devices shall be placed where shown on the approved plan or as directed by the Engineer. Traffic control devices shall be kept clean and maintained in good condition until no longer required for the project, at which time they shall be disposed of.

**TRAFFIC CONTROL IS TO BE COORDINATED WITH LOCAL AUTHORITIES.** It is the intention of this contract that vehicle and pedestrian traffic be maintained within the limits of the project at all times.

Final responsibility for the installation of adequate precautions and for the protection of the traveling public and his own personnel shall rest with the Contractor.

Alternate one-way traffic control may be required during construction operations. Permission for complete stoppage of one direction of traffic must be obtained from the Local Police and the Engineer at least three (3) days prior to the stoppage. Alternate one-way traffic control will be affected by two (2) Uniform Traffic directors, one at each end of the work area. All temporary traffic lanes shall have a minimum unobstructed width of 11 feet.

Reduction of the number of lanes available for traffic or construction of existing widths of traveled way will not be permitted until after 9:00 a.m. and shall be removed prior to 4:00 p.m. unless otherwise directed by the Engineer.

Work which will interfere with traffic or restrict the width of traveled way available for traffic shall not be performed on Saturdays, Sundays, or legal holidays unless otherwise directed by the Engineer.

Sites for the storage of equipment and materials during the progress of the work shall be subject to the approval of the Engineer and Local Authorities.

Compliance with all prescribed safety precautions contained herein shall not relieve the Contractor of this primary responsibility to take all necessary measures to protect and safeguard the public nor relieve him of any responsibilities described in the contract agreements.

If the Local Police Department notifies the Contractor or his superintendent, or the Engineer of any hazardous condition or violation of traffic control requirements in the work area, all operations shall be immediately discontinued and immediate

remedial action will be taken to the satisfaction of the Local Police before work is resumed. All costs incurred as a result of such action shall be borne by the Contractor without recourse against the Owner.

If the Contractor at any time fails to comply with these provisions, the Engineer will immediately notify the Contractor of such non-compliance. If the Contractor fails to remedy unsatisfactory maintenance within twenty-four (24) hours after receipt of such notice, the Engineer may proceed to maintain the project and the entire cost of this maintenance will be deducted from any monies due or that may become due the Contractor.

Prior to beginning a seasonal shutdown or any other prolonged work stoppage, or when work is suspended by the Engineer, all excavated areas within the traveled way or adjacent thereto shall be brought to a grade compatible with the existing traveled way or to finished grade, as approved.

The Contractor shall be responsible for maintenance within the project limits until acceptance. This maintenance shall consist of continuous and effective work prosecuted day by day, with adequate equipment and forces to the end that the roadway is kept in satisfactory condition at all times.

In the case of a contract requiring the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

On any section opened to traffic, whether provided for in the contract documents or opened as directed, any damage to the roadway due to the contractor's operations shall be repaired at no cost to the Owner.

The Contractor shall backfill all excavated areas within the roadway to a grade compatible with the existing traveled way at such times he is not actively working. This shall include nights, weekends, and periods of shut downs.

Trenches shall not remain open overnight under any circumstances.

Requirements for excavation and backfill including pavement trench repair within the subject roadways shall be in accordance with other applicable sections of these Specifications.

The use of Uniformed Police Officers is not proposed, as part of this project. If, at a later date, the Township determines the use of Uniformed Police Officers is required, the Township will provide for the direct payment of uniformed law officers and any additional costs directly associated with the provision for those officers.

#### MEASUREMENT AND PAYMENT

Payment for maintenance and protection of traffic, including all labor, equipment and materials, shall be included in the price bid for all work requiring same; which price shall include all costs of providing signs, cones, barricades, Type I, II, and III, lights, barrels, temporary construction fencing and all other items necessary to protect the traffic and pedestrians in the vicinity of the construction and all else necessary therefore and incidental thereto as directed by the Engineer. If the Township determines that uniform police traffic directors are required for the job, the officers will be assigned by the Franklin Township Police Department and paid directly by the Township.

## **SECTION 2C – SITE CLEARING AND GRUBBING/ GRADING**

Clearing and grubbing shall consist of removing all natural and artificial obstacles and material from the construction areas and such other areas as may be specified. The above work includes, if applicable, the removal of existing curbs, shrubs, vegetation, trees including stumps and root system, subgrade, and removal and resetting of any other structures or obstacles as directed by the Engineer.

Existing improvements, adjacent properties, utility and other facilities and trees and plants that are not to be removed shall be protected from injury or damage resulting from the Contractor's operations. The area shall be cleared of all vegetation matter such as trees, logs, stumps, roots of downed trees, brush, grass, weeds, and other objectionable material within the right-of-ways and/or contract limits, and only that vegetation necessary to be removed within those limits, or as directed by the Engineer in order to minimize environmental impacts.

When or where any direct or indirect damage or injury is done to public, or private property, by or on account of any act or omission, neglect or misconduct, on the part of the Contractor in the execution of the work, such property shall be restored by the Contractor at his expense, to a condition equal to that existing before such damage or injury was done, or he shall make good such damage or injury in such other manner as may be acceptable to the Engineer.

Site clearing includes the removal of all trees, brush, weeds, roots, matted leaves, small structures, debris, and other objectionable material, vegetation and growth.

Site clearing includes the removal of all obstructions either standing or fallen within the limit of construction and for which payment is not provided for in the contract.

The Contractor shall be required to prune existing trees and shrubs where directed by the Engineer.

Field dressing of all tree trunks, limbs or roots following the cutting of same shall utilize approved tree pruning paint to the satisfaction of the Engineer.

The Contractor will be required to import topsoil in such quantities so as to restore the site in conformance with the Contract Plans and Specifications.

All work necessary for excavation and site grading shall be satisfactorily completed in a first class manner acceptable to the Engineer.

The Contractor shall not be permitted to remove any excavated soils from the site, unsuitable or otherwise, prior to the completion of all grading operations unless same is approved by the Engineer or his representative.

This section of the Specifications also requires that a neat site is maintained throughout construction, no water ponding, no erosion, no dusty conditions prevail, and construction affected areas are minimized. The construction shall be coordinated in a manner that continually maintains a neat, orderly site that is presentable at all times. All areas disturbed by grading, excavation, or by other cause, prior to final seeding, shall be stabilized with seed or as specified within 30 days of disturbance with no additional compensation.

It is recommended that major grading operations take place at a time that would permit establishment of a grass area such as early Spring or early Fall, as required by other applicable sections of these Specifications.

Under no circumstances shall any silt laden water be directed to any storm sewer. All necessary soil erosion and sediment control measures shall be furnished, installed and maintained.

The Contractor shall be responsible to save and protect as many trees, as much lawn, and as much existing pavement as possible on the site as directed by the Engineer.

Notify the utility companies prior to the start of construction and schedule the work so as not to be unnecessarily delayed by the utility companies. Do not unnecessarily delay the utility companies from performing their work.

Site Clearing includes restoration of all grassed area, driveways, pavement areas, concrete areas, and all else disturbed outside the limit of work and the cleaning of existing inlets, manholes, and storm sewers to provide positive flow from proposed storm sewer discharges into the existing storm sewer system.

Site Clearing includes the removal of live and dead trees including stumps within the project limits.

Site Clearing shall also include the removal and disposal of the existing signs and posts.

Site Clearing shall also include the removal of existing tennis net posts and footings, as noted on the Contract Drawings and/or directed by the Engineer.

Site Clearing shall also include the removal of the existing tennis court pavement and subgrade.

Site Clearing shall also include the removal and storage of all existing signage within the project limits, as required for the construction of the improvements indicated on the Contract Drawings.

Site Clearing shall also include the furnishing and installation of temporary chain link site fence for the duration of construction activity. Site fence shall be a minimum of six (6) feet high.

Site Clearing shall also include the removal of the existing chain link fence including but not limited to mesh, posts, footings, and gates.

Site Clearing shall also include all excavations required for a complete installation of all improvements included on the contract drawings and project specifications. Separate payment for excavation will not be made and shall be included in the bid item for site clearing.

Site Clearing shall also include the cutting and removal of existing trees and stumps, as indicated on the contract drawings. Separate payment will not be made for same and shall be included in the bid item for site clearing.

### QUALITY ASSURANCE

Testing required to determine compliance of work to the required standard during execution and for final acceptance of the work shall be the responsibility of the Contractor. The testing agency and/or personnel will be approved in writing by the Engineer prior to testing. Tests shall be done by a state certified/licensed testing firm at the Contractor's expense. Test results will be given to the Engineer directly from lab with a copy to the Contractor. Engineer will be present when samples of bedding and backfill materials are gathered for analysis and will designate the areas to be tested. Deficiencies shall be corrected before placing additional material.

All fill material, on-site or imported, should be placed in layers on the order of 8 to 12 inches in loose thickness and be uniformly compacted to at least 95 percent of its maximum dry density as determined by ASTM D-1557 Test Procedures. Backfill within confined areas should be placed in layers on the order of 6 to 8 inches in loose thickness and uniformly compacted to similar densities as previously mentioned, utilizing portable vibratory plate compaction equipment.

All workmanship and construction shall be of high quality and professionalism.

### CLASSIFICATION

All excavation under this section shall be considered unclassified regardless of the nature of material encountered.

### PROJECT CONDITIONS

Maintain fills, slopes, and ditches within the limits of the new construction until final acceptance. Repair areas damaged as a result of storms or construction. Take necessary precautions to prevent the entrance of soils and other materials into streambeds, lakes, or water courses.

### PRODUCTS

- A. All embankment and backfill material will be subject to approval by the Engineer.
- B. Before importing borrow, use all suitable material, existing on-site or obtained from excavation, for embankment construction. Obtain approval from the Engineer before importing borrow. On-site materials may be suitable for use as bedding and backfill material. All bedding and backfill material shall be less than 1 inch in size and free from deleterious substances. The Engineer will determine if on-site material is suitable for use.
- C. Material for proposed grading and/or proposed fill shall be free from detrimental quantities of organic materials, and free of all debris and other unsuitable materials. Frozen material will not be permitted in embankment construction.

### FILL MATERIAL

Fill for proposed grading shall consist of imported fill or on-site materials and shall conform to the gradational envelope of Type "G" Granular Fill consisting of sand and gravel conforming to the following requirements:

<u>U.S. Standard Sieve Size</u>	<u>Percent Finer by Weight</u>
2"	100
1"	80-100
3/8"	70-100
No. 10	50-100
No. 30	30- 85
No. 60	15- 65
No. 200	5- 15

EXECUTION

GROUND SURFACE PREPARATION

- A. Before excavating or placing proposed fill, complete all clearing and grubbing and scarify ground surface to provide ample bond between old and new material.

Sampling points in stockpile or borrow areas shall be as directed by Engineer. Additional tests shall be required if changes in material are observed.

- B. During placement of the proposed grade fill, the following in-place tests shall be performed.

<u>Test</u>	<u>Frequency</u>
Density & Moisture Content of Soil in-place by Nuclear Methods ASTM D2922-91 and ASTM D3017-88 or by Sand Cone Method ASTM D1556-90	2 tests each type per 10,000 cu yds (a minimum of 2 tests per lift during fill operations)

- C. A numbered grid shall be established on the compacted area. Sampling points shall be selected by random number as directed by the Engineer. Suspect areas shall be tested as directed by Engineer.
- D. During placement of successive layers of common fill, all testing required in any layer shall be completed before successive layers are installed.

MEASUREMENT AND PAYMENT

Payment for clearing and preparation of site, mobilization, demobilization and site grading within the limits specified in order to allow the for the construction of the post tension concrete tennis sports courts including concrete/pavement removal, installation of new tennis posts, footings and nets, chain link fence and gates, HMA walkway and all other improvements, including the clearing, excavating, loading and transporting of fill material, removal and disposal of unsuitable material, excess fill material and topsoil, supplying the required site fill material if ordered, restoration of the affected property and all work as outlined above, as detailed on the plans and required to satisfactorily complete same shall be included in the Lump Sum Bid for this item as listed in the Bid Form. A maximum bid amount is specified for this item in the Proposal. If bidders determine that additional compensation is required for this item said compensation shall be included in the other bid items requiring clearing and preparation of site.

Compensation for clearing, grubbing and grading including all labor, equipment, and materials shall be included in the Lump Sum Bid for this item as listed in the Bid Form.

Compensation for labor and materials required for tree save measures, all pruning, tree and limb removal, field dressing, removal of dead vegetation, and disposal as required by the Engineer shall be included in the bid price for Clearing and Preparation of Site, Mobilization and Demobilization.

A portion of the bid amount for Clearing and Preparation of Site, Mobilization and Demobilization based on the approved schedule of values will be retained until final clean-up, restoration, punch lists and demobilization are complete.

Separate payment will not be made for the items associated with clearing and preparation of site for which individual pay items have not been provided in the contract. Payment shall be included in the Lump Sum price bid for site clearing, and/or the prices bid for all items requiring the same.

Separate measurement and payment will not be made for the removal of trees indicated to be removed on the construction plans, nor for the use of persons certified to work adjacent to electrical lines. Compensation for the same shall be included in the lump sum price indicated in the bid form for site clearing and/or the prices bid for all items requiring the same.

Separate measurement and payment will not be made for the removal of tennis net posts and footings. Payment for same shall be included in the Lump Sum price bid for site clearing, and/or the prices bid for all items requiring same.

Separate measurement and payment will not be made for the furnishing and installation of six (6) foot high temporary chain link site fence.

Separate measurement and payment will not be made for the removal of existing footings/foundations for the installation of the proposed improvements as delineated and/or noted on the plans. Payment for same shall be included in the lump sum price bid for site clearing, and/or the prices bid for all items requiring same.

Payment for mobilization and demobilization will be made on a lump sum basis regardless of the fact that the Contractor may have, for any reason, shut down its work on the project or moved equipment away from the project and back again.

Separate measurement and payment will not be made for imported fill material. Payment for same shall be included in the bid price submitted for all items requiring same.

Separate measurement and payment will not be made for the removal of the existing tennis court pavement and subgrade. Payment for same shall be included in the lump sum price bid for site clearing.

Payment for this item will be made under:

Pay Item

Site Clearing, Grubbing/Grading and Preparation of Site  
Mobilization and Demobilization **(Maximum Lump Sum  
Bid Allowed For This Item Is \$80,000.00)**

Pay Unit

Lump Sum

## **SECTION 2D - EXCAVATION AND BACKFILL**

### **WORK INCLUDED**

The work includes all excavation, fill, stone, backfill, grading, compaction, and associated work necessary for the construction of the structures, facilities, and appurtenances as shown on the plans or required to complete the work as contained in the Contract Documents.

Excavation, fill and backfill work includes transportation, storage on temporary stock piles, backfill, selection, placing and compaction of various classes of fill described under other applicable sections of these Specifications and the disposal of unsuitable or surplus materials at approved locations on the site or within 500' of the site.

### **TOPSOIL SEPARATION**

The Contractor shall remove and stockpile all topsoil prior to commencing excavation unless he can demonstrate that he can satisfactorily separate the topsoil from other soils during the work. All topsoil shall be 3/8" screened to be utilized to restore the site after the construction. All unsuitable material obtained from the screening process shall be removed from the site at no cost to the owner.

### **EXCAVATION AND CLEARANCES**

The excavations shall be made to conform with the lines of the finished structures wherever practical. The excavations shall not be carried below the required grades by machine and backfilled to the grade of foundations, bottom slabs, footings or pipelines. All excavations shall be of sufficient width to permit work to be done competently, in the manner intended and of the size specified and/or shown on the plans.

The length of the trench to be opened or the area of the surface to be disturbed and restored at any time will be limited by the Engineer with regard both to expeditious construction and convenience to the Owner. New trenches will not be excavated if previous trenches are in need of backfilling or labor is needed to restore the surface of the ground to a safe and proper condition.

### **UNAUTHORIZED EXCAVATION**

Special care will be taken with the final six inches of all excavations. In no case shall the excavation be carried below grade by machine and backfill used to establish the required grade. Where the excavation has been carried below grade through error or because of slides or cave-ins, the Contractor shall at his own expense refill such areas with 3/4 inch graded gravel or crushed stone to insure the stability of the pipeline. If the Contractor excavates below the required grade for structures, the over excavation shall be filled with material subject to the requirements of the Engineer. The material may include 2000 psi concrete if so ordered by the Engineer.

### **SHEETING AND BRACING**

Where necessary for safety or to prevent disturbance, damage or settlement of adjacent structures, pipelines, utilities, improvements or paving, excavations shall be sheeted and braced. Any damage to new or existing structures occurring through settlement, water or earth pressure, or other causes due to inadequate construction procedures of the Contractor in any other manner, shall be repaired by the Contractor at his own expense.

### **DEWATERING AND PROTECTION FROM FLOODING**

The Contractor shall dewater the excavations promptly and continuously throughout the progress of the work and shall keep the excavations dry at all times until the structures to be built therein, are completed. Where work is to be performed below groundwater level, the Contractor shall provide, operate and maintain dewatering facilities sufficient to maintain the excavation free from groundwater for the time required to complete the work in the proper workmanlike manner.

The Contractor shall protect uncompleted work from flooding during storms or from other causes. All pipelines or structures not stable against uplift during construction or prior to completion shall be thoroughly braced or otherwise protected.

All necessary precautions shall be taken to prevent disturbance of, and to properly drain, the areas upon which concrete is poured, and upon which pipe is to be laid. All concrete shall be kept dry for one month after pouring.

All water pumped and bailed from the trench or other excavation shall be conveyed in a proper manner through an approved settling basin and to a suitable point of discharge by the Contractor at his own expense.

### **BACKFILLING EXCAVATIONS**

The Contractor shall backfill excavations around structures, underneath paved areas, sidewalks, and other areas sensitive to settlements with bankrun sand and gravel equivalent to NJDOTSS Type I-3 soil aggregate which shall be compacted to 90 percent of its modified proctor density determined in accordance with ASTM Specifications D-1557-72T.

All lumber, braces, construction articles, and rubbish shall be carefully removed from behind walls of structures unless ordered left in place by the Engineer. Unless otherwise specified, all trenches or excavations shall be backfilled and compacted to the original ground surface or to such grades as shall be required. The backfilling outside building walls shall be done in accordance with good practice to prevent after settlement around all structures and pipelines.

The Engineer reserves the right to make such selection of the material for various portions of the backfill as may be required for the satisfactory execution of the work.

Backfill shall not be placed on ground that is frozen, nor shall backfill material be permitted to freeze during placing and compaction.

Only such backfill material as is described herein approved by the Engineer shall be used. All boulders, rocks, trees, stumps or other unsuitable material shall be disposed of at approved locations off the site at no additional cost.

As soon as practical after the pipe or masonry has been placed and the concrete has acquired satisfactory strength, as determined by the Engineer, the backfilling shall begin and shall be expeditiously complete.

The Contractor shall utilize approved mechanical vibratory compaction equipment to thoroughly consolidate backfill. The backfill shall be installed in approved lifts and compacted to achieve maximum consolidation and minimize subsequent settlement. All backfill in embankments shall be thoroughly compacted by rollers of approved size, type and weight for the particular fill materials.

#### ADDITIONAL EXCAVATION AND FILL

Wherever undisturbed material found at the grades shown on the plans is not satisfactory in the opinion of the Engineer, the Contractor shall make any additional excavations directed by the Engineer, and shall refill excavations to two inches above the required grade with bankrun sand and gravel. The fill material shall be as specified under other applicable sections of these Specifications.

Fill material shall be spread in uniform horizontal layers that when compacted shall not exceed 8 inches in thickness. Each lift shall be compacted to 95% of its modified proctor density in accordance with ASTM D1557-72T. The moisture content of the fill material shall be changed when necessary to attain the specified density. Changing of the moisture content shall be accomplished by aerating the soil or by adding water to the soil as required. If wetting or drying is required, each lift shall be thoroughly mixed to ensure a uniform distribution of moisture. Compaction shall be accomplished by equipment designed for compacting the type of soil being used as approved by the Engineer. The Contractor shall establish operating procedures to obtain uniform coverage of the area being compacted. During construction, the surface of the fill shall be graded to permit runoff of surface water at all times.

#### CONSTRUCTION SAFETY

The Contractor shall follow the various requirements contained in the Construction Safety Code, latest edition, as prepared by the State of New Jersey, Department of Labor and Industry, Bureau of Engineering and Safety. In addition, the Contractor shall comply with the "Construction Safety and Health Regulations" of the Occupational Safety and Health Administration, Title 29, Chapter XVII, Part 1926 or latest revision.

#### UNDERGROUND OBJECTS AND UTILITIES

Information as to the location of existing utilities has been collected from various sources, but the results of such investigations are shown on the contract drawings and are not guaranteed as to accuracy. The Contractor is particularly directed to the fact that underground objects or material location, elevation, or type is not warranted to be approximately correct (nor can they be assumed to be in the only subsurface objects or materials which may be encountered in the work). The Contractor shall make all necessary investigations to satisfy himself as to the existing conditions prior to bidding work.

#### MEASUREMENT AND PAYMENT

Separate measurement and payment for excavation and backfill including all labor, equipment and material will not be made. Payment shall be included in the unit price bid for all items requiring same.

**SECTION 2E - TEST PITS**

WORK INCLUDED

At the locations indicated on the Contract Drawings, or as directed by the Engineer, the Contractor shall excavate test pits for the purpose of locating existing utilities. Extreme caution shall be utilized in excavating said test pits so as not to cause damage to the existing utilities.

Details for cutting and removal of existing pavement for test pit excavations shall be as described in other applicable sections of these Specifications.

Test pits shall be excavated at all locations prior to the start of construction. The Contractor is responsible for and shall verify all dimensions and details before ordering the required materials necessary at the location of the test pits. Any discrepancies shall be brought to the immediate attention of the Engineer.

All excavations shall be of sufficient width to permit proper inspection of the existing utilities as witnessed by the Engineer. Upon completion of the utility inspection, the test pits shall be backfilled and compacted in accordance with the recommendations of the Engineer. Any test pits located within the roadway right-of-way shall receive temporary pavement placement in accordance with the Temporary Pavement Placement Section of this Specification. The Contractor shall continuously maintain the test pit areas until such time as the permanent pavement repair can be installed.

MEASUREMENT AND PAYMENT

<u>Pay Item</u>	<u>Pay Unit</u>
Excavation, Test Pit (only where ordered)	Cubic Yard

Payment for the excavation of test pits at the locations specified on the Contract Drawings including all work as outlined above and required to satisfactorily complete same, shall be based on the unit price bid as per the actual number of cubic yards of material ordered and removed as measured by the Engineer.

Compensation for test pit excavation shall be made for only those locations indicated on the Contract Drawings or specifically requested by the Engineer. Should it become necessary for the Contractor to excavate additional test pits outside of the boundaries of those locations shown on the plans, prior approval from the Engineer **MUST** be received if payment for same is to be included in the Contract.

**SECTION 2F - CUTTING AND REMOVAL OF EXISTING PAVEMENT****WORK INCLUDED**

The Contractor shall cut and remove sections of the existing pavement and excavate to a depth of up to 12 inches or more below the surface of the existing pavement only when and as directed by the Engineer. The work includes saw cutting (if ordered) or cutting by other means approved by the Engineer, of the existing concrete or bituminous pavement in a linear pattern, cutting of necessary re-bars, removal and spoiling existing pavement sections and excavated material. The Contractor shall be responsible to replace any curb section or other facilities damaged in the work as a result of the Contractor's workmanship at no additional compensation to the Contractor.

**MEASUREMENT AND PAYMENT**

Separate payment for cutting and removal of existing pavement, including saw cutting, removal, spoiling, excavation and other associated work as directed by the Engineer will not be made and shall be included in the unit price bid for each item requiring same.

**SECTION 2G - REMOVE EXISTING CURB, TENNIS COURTS, WALKS AND APRONS****WORK INCLUDED**

The Contractor shall remove existing NJDOT, standard and/or County, tennis courts, curb, curb and gutter, walks, and apron sections where indicated in the contract drawings and where ordered by the Engineer. The work includes the cutting of adjoining pavement, the protection of adjoining curb and walk sections, the removal and disposal of curb, curb and gutter, walks, and apron sections and other associated work.

**METHODS**

All work shall be in accordance with good quality workmanship and shall be done in a manner that minimizes disturbance to adjoining pavement, curb, driveway aprons, lawns, and other improvements.

**MEASUREMENT AND PAYMENT**

Separate payment for removal of existing curb, tennis courts, walks and aprons, including saw cutting, removal, spoiling, excavation and other associated work as directed by the Engineer will not be made and shall be included in the unit price bid for each item requiring same.

**SECTION 2H – STONE, BANKRUN SAND AND GRAVEL, AND DGA BASE COURSE****WORK INCLUDED**

The Contractor shall furnish and install only where ordered by the Engineer or where required by the contract documents, backfill or for other purposes required by the Engineer. The work includes furnishing, installation and compaction of the material as required by the specifications.

**MATERIALS**

Crushed stone shall be cleaned crushed trap rock of a quality equal to that required by the New Jersey Department of Transportation "Standard Specifications for Road and Bridge Construction:" for broken stone. Table 901.03-1 Size Number 2(1 1/2" to 2 1/2"), 5(1/2" to 1") and 57(No. 4 to 1").

Subbase shall be quarry process stone dense graded aggregate base course Type 5 Class A meeting the New Jersey Department of Transportation Specification, installed at locations required by the plans or as ordered by the Engineer, graded and compacted to the lines and grades required.

Type 5, Class A dense graded aggregate may **not** be produced from recycled concrete aggregate.

Bankrun sand and gravel shall consist of clean sand and gravel, meeting the New Jersey Department of Transportation Specification 901.11 and Table 901.11-1 gradation I-3.

**MEASUREMENT AND PAYMENT**

Separate payment for excavation and installation of the dense graded aggregate base course, fine grading, including all work as detailed above as well as required to satisfactorily complete same, will not be made and shall be included in the unit price bid for each item requiring same.

Separate measurement and payment for excavation and disposal of excavated materials will not be made and shall be included in the unit price bid for each item requiring same.

**SECTION 21 – CONCRETE PAD**

**CONCRETE PAD**

Pad shall have a minimum six (6”) inches thickness. Pads shall be constructed at the locations as indicated. The subgrade shall be smooth and even and shall be compacted by rolling and dense graded aggregate shall be spread to a depth of not less than four inches.

Concrete for the patio shall be State Mix Class "B" air-entrained 4500 psi concrete, and shall be manufactured in accordance with American Society for Testing and Materials, C-94 (latest revision) "Specifications for Ready-Mixed Concrete", and shall originate in a ready-mixed plant that has been certified and approved by the National Ready Mixed Concrete Association. The Contractor shall submit to the Engineer a copy of the certification prior to the delivery and placing of any concrete on this project. Course aggregate proportions shall conform to American Society for Testing and Materials, Concrete Aggregates C-33, Size No. 57 or 67. Concrete will be air-entrained and the amount of air shall be five percent plus or minus one percent. Concrete shall be placed to true grade. The finish shall be with a wood float; followed by brushing with a set of soft-haired brushes as to a neat workmanlike surface. Expansion joints one-half inch wide shall be provided at intervals specified by the Engineer and filled with pre-formed bituminous expansion joint filler. Exposed edges shall be neatly rounded to a radius of one-half inch.

**Causes for Rejection of Concrete Pad**

Concrete pads shall be rejected and ordered replaced by the Engineer if any or all of the following should occur or exist:

- A. Staining or discoloration of concrete sidewalk.
- B. Walk or driveway is out of alignment.
- C. Walk or driveway is out of grade.
- D. Joints and surfaces are improperly finished.
- E. Expansion joints protrude from concrete.
- F. Cracks, chips, or other damages occur during construction or maintenance period.
- G. Settlement of walk or driveway.
- H. Inspection not asked for prior to pouring of concrete.
- I. Improper vibration of concrete.
- J. Vandalism during initial setup of concrete.

**MEASUREMENT AND PAYMENT**

Payment for the regrading of adjacent turf areas to provide a minimum slope of 2% and maximum slope of 3:1 shall be included in the unit prices bid for the concrete pads as listed on the bid form.

Separate payment will not be made for dense graded aggregate or ¾" clean stone under proposed concrete pads and hot mix asphalt walkways.

Separate payment will not be made for non-shrink exterior grout.

Separate payment will not be made for sawcutting adjacent hot mix asphalt and/or concrete driveways.

Separate measurement and payment will not be made for the removal and reinstallation of shelters, benches and trash receptacles and shall be included in the unit prices bid for the concrete pads as listed on the bid form.

Payment for this item will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Concrete Pad, 6" Thick, Reinforced (only where ordered)	Square Yard

## **SECTION 2J – BASE CONSTRUCTION FOR CONCRETE COURTS**

### DESCRIPTION

The contractor shall provide all necessary labor, materials, and equipment to construct the base work for the concrete court installation as shown on the drawings or as directed by the Engineer, and as specified below and in other applicable sections of this specification. The design criteria described herein include:

- 1) Site evaluation.
- 2) Bulk excavation and grading.
- 3) Preparation of subgrade.
- 4) Furnish and install 7.5" quarry dense graded aggregate base course with minimum 2" gravel dust layer, laser graded to the proper slope.

### SITE EVALUATION

The contractor shall evaluate the overall soil conditions and drainage properties of the location. The contractor may at their own expense, obtain soil borings, or by other adequate measure satisfy themselves regarding the character, groundwater elevations and amount of the various classes of material to be encountered in the work.

The presence of any pavement, wood, rock, ledge, water or other debris should be reported to the engineer.

### EXCAVATION AND GRADING

A single benchmark must be established prior to any excavation and maintained by a licensed surveyor of record during the entire construction process. The site should then be excavated to a depth per plan design. During excavation, all grass, topsoil, debris etc., should be stripped, in their entirety, and the area excavated as necessary to conform to the grades on the plan.

For all fill areas, or to fill any areas that may be over-excavated, select fill material shall be used to achieve design subgrade elevations. Select fill material shall be inert soil, clean and free from organic matter, roots, brush or other vegetation, trash, debris or other detrimental substances, and rocks or unbroken lumps larger than 3 inches, and shall be tested and approved by the soil testing and observation agency prior to placement.

The subgrade shall be constructed using approved select fill material. This material shall be placed in lifts not greater than 8" in depth. Each lift (layer or course) shall be compacted to at least 95% of maximum dry density at optimum moisture content per ASTM D698 Standard Proctor method. The moisture in the soil, at the time of compaction, shall be uniformly distributed and should be within 90 and 120% range of the optimum.

Proof Roll: Proof roll and mark "soft spots" for additional compaction or correction. Use loaded tandem or tri-axle dump truck fully loaded with minimum total load of 20 tons. Proof rolling operations must be performed in the presence of the Engineer. Any soft or yielding areas shall be re-compacted or removed and replaced with suitable material to meet required compaction requirements.

Finished Grading: The finished surface of the subgrade shall have a finished grade in accordance with the Plans and Specifications. Final subgrade shall be established to within a tolerance of +/- 1/4" (.02') of the designed subgrade elevation.

Grade Verification: A certified survey shall be performed by the contractors surveyor on a 10'x10' grid for the entire area to verify grade and elevation of the subgrade.

### SUBGRADE LINER

Liner Material: Subgrade liner shall be a woven geotextile of silt-form polypropylene construction and shall be U.V. stabilized at 90% strength retention after 500 hours of exposure. The support fabric shall be Supac 4WS or approved equal.

Installation: The subgrade surface is to be uniform and free of rocks, depressions, voids, and irregularities that might damage liner. Install liner in accordance with liner manufacturer's written recommendations.

- a) The liner should be placed in the perimeter curb trench first. The trench liner should be separate from the liner for the court base course. Overlap court and curb trench sections a minimum of 18" in the direction of slope.
- b) Overlap joints a minimum of eight inches. All laps shall be overlapped in direction the slope.
- c) Place a suitable amount of ballast on the liner to prevent movement by wind. The ballast shall be in a form that will not damage liner.
- d) Direct loading on the fabric by traffic shall not be allowed. A minimum of 6" of material cover must be placed prior to traffic.

Repair punctured or torn liner by overlapping additional fabric and jointing in accordance with manufacturer's recommendations.

## STONE BASE COURSE

Quarry dense graded aggregate shall be placed over the entire subbase, which has been covered with geotextile fabric. The aggregate shall comprise of a minimum 7.5" compacted, stable, quarry dense graded aggregate base course. Care shall be taken to maintain the grade designed for the subbase.

Contractor shall provide a minimum 2" gravel dust layer on the surface of the quarry dense graded aggregate base course, laser graded to the proper slope as determined by the Engineer and Classic Turf for the installation of the post tension concrete slab.

Delivery Moisture Content of Stone Base: Stone base must contain 90% to 110% of the optimum moisture content to ensure that fines do not migrate in transit or during placement and to facilitate proper compaction. It is critical that the installation contractor ensure that aggregate leaving the source plant meet this requirement. The Contractor shall apply water to the processed stone on site to attain and maintain this minimum moisture content.

### Handling & Placement:

- a) Prior to aggregate placement, remove any excess or contaminated backfill from the excavations.
- b) Should any separation of the materials occur, during any stage of the spreading or stockpiling, the Contractor must immediately remove and dispose of segregated material and correct or change handling procedures to prevent any further separation. Double handling of materials should be avoided.
- c) The Contractor shall utilize laser-controlled equipment for the grading of the stone base to ensure accuracy in grading tolerances.
- d) Install stone base, whenever possible, from sideline toward centerline, to the lines and grades shown on the drawings. Distance material is pushed from point of discharge should be limited to that where segregation of materials does not occur.
- e) Each layer must be spread uniformly with equipment that will not cause perceptible separation in gradation (segregation of the aggregates), preferably a self-propelled paving machine, or a small grader or low ground pressure (LPG) dozer.
- f) The Contractor shall grade the surface of the stone acceptable to receive the gravel dust layer, and the installation of the post tension concrete slab.

Compaction: The stone base shall be compacted to proper density so that minimal rutting or displacement occurs when subjected to a fully loaded tri-axle or tandem-axle truck proof roll.

### Testing of Completed Stone Base:

- a) Elevations/Planarity: The finished gravel dust surface shall not deviate (tolerance-to-grade) by more than plus or minus 1/8" (.01') from designated compacted grade elevations when checked by 10' grid survey. Surface shall also not indicate any deviation more than 1/8" (.01') in 10' (any direction) when placed under a 10-foot straight edge. This tolerance is required over the entire court. Areas that deviate should be marked with spray paint and corrected by re-grading or filling low areas with crushed stone, granite chips or screenings and rolling tight to achieve proper density. Surface elevations and planarity shall be verified by means of an independent survey supplied by the contractor utilizing a maximum grid size spacing of 10' x 10'.
- b) All test results will be logged and documented by the contractor and submitted to the Owner's Representative or Project Engineer. If at any time the processed stone base does not meet specifications, it shall be the Contractor's responsibility to restore, at his expense, the processed stone base to the required grade, cross-section and density.

When the Contractor has independently confirmed that they are in compliance with all the above listed requirements (planarity and elevation verified by a licensed surveyor; and compaction and gradation verified by the specified tests), they shall schedule a final inspection by the Post Tension Concrete Court System Installer and the owner's engineer. During this final inspection the Contractor shall make available an orbital laser system for checking grades. Any deficiencies uncovered during this inspection must be remedied to the satisfaction of the Post Tension Concrete Court System Installer before the base system will be considered acceptable.

## MEASUREMENT AND PAYMENT

Separate measurement and payment will not be made for the base construction for the tennis courts including excavation, quarry dense graded aggregate base course (7.5" thick) and 2" thick dust layer. Payment will be included in the unit prices indicated on the bid form for the respective bid items.

## **SECTION 2K – POST TENSION CONCRETE**

### **PART 1 – GENERAL**

#### **GENERAL REQUIREMENTS**

- A. It is the intent of this Section to specify a post-tension concrete base to be used beneath the tennis court surfacing that will have a minimum warranted 20-year life in the concrete. The post tension slab needs to be designed with a residual compression in the center of 130psi.
- B. Examine all other Sections of the Specifications for requirements that affect work of this Section whether or not such work is specifically mentioned in this Section.
- C. Coordinate work with trades affecting, or affected by, work of this Section. Cooperate with such trades to assure the steady progress of all work under the Contract.

#### **WORK INCLUDED**

- A. Submission for approval of a detailed drawing stamped by a post tension concrete engineer, showing the spacing and layout of the entire post tensioned area. The post tension slab needs to be designed with a residual compression in the center of 130psi.
- B. Acceptance of base preparation prior to beginning concrete work.
- C. Installation of necessary footings and sleeves for the various tennis equipment and fencing within the area of the post-tension concrete.
- D. Installation of the post-tension concrete surface and site equipment as appropriate.

#### **RELATED WORK UNDER OTHER SECTIONS**

- A. Carefully examine all of the Contract Documents for requirements that affect the work in this section. Other specification sections which directly relate to the work of this section include, but are not limited to, the following:
  - 1. Clearing Site
  - 2. Excavation
  - 3. Perimeter Curb
  - 4. Surface Coating
  - 5. Chain Link Fence and Gates

#### **REFERENCES**

- A. References herein to any technical society, organization, group or body are made in accordance with the following abbreviations and, unless otherwise noted or specified, all work under this Section shall conform to the latest edition as applicable:
  - 1. Post-Tensioning Institute (PTI).
  - 2. American Society for Testing and Materials (ASTM).
  - 3. American Sports Builders Association (ASBA).

#### **QUALITY CONTROL**

- A. Experience:
  - 1. The post-tension concrete Construction Supervisor must be an American Sports Builders Association (ASBA) Certified Tennis Court Builder (CTCB) with a minimum of five (5) years experience installing post-tensioned concrete tennis courts.
  - 2. The CTCB must be a Certified Post Tensioning Installer as determined by the Post-Tensioning Institute with a Level 2 Certification and shall provide proof of certification.
  - 3. The contractor shall have completed at least ten (10) post tension concrete tennis courts within the last three (3) years of similar size and installation and shall provide references for these projects for verification.
- C. Source Limitations: Obtain all materials from manufacturers familiar with this type of work, meeting the

criteria of this Specification Section, and from single sources.

- C. Inspection and Acceptance:
  - 1. Existing subbase and subgrade shall be inspected CTCB to verify acceptance of installation and condition. Commencement of subsequent installation in a given work area indicates acceptance of underlying substrates and systems.
  - 2. The General Contractor and associated subcontractors shall comply with the drawings, specifically notes regarding sequencing, existing condition investigations and proposed grade tolerances.
- D. Planarity and Grade:
  - 1. Deviation in planarity of the final surface shall not exceed 1/8" beneath a 10' straightedge. Deviation from a straight grade between levels on drawings shall not exceed 1/8".
- D. Protection: The General Contractor and his subcontractors shall use equipment appropriate for this type of work.
- F. Restoration of Damage: All contractors shall exercise care in the execution of his work and avoid damage or defacement of adjacent or surrounding areas by using suitable protective means. Damage or defacement that occurs shall be remedied at the Contractors expense.

#### SUBMITTALS

- A. In accordance with Conditions of the Contract, submit the following information **following acceptance of the Bid, but prior to Contract signing.**
  - 1. Name of contracting Company that will be completing the post tension work.
  - 2. Name of the Subcontractor's CTCB who will be on-site during the project.
    - a. Proof of CTCB certification
    - b. Proof of PTI Level 2 Certification
    - c. Reference List based on Experience Criteria listed above.
  - 3. Verification from the Subcontractor that stamped drawings will be provided during submittals and who will be providing the drawings.
- B. Submit the following in accordance with Conditions of the Contract.
  - 1. Material Cut Sheets:
    - a. Contractor shall provide cut sheets for all materials to be used in the post tension concrete work.
  - 2. Shop Drawings:
    - a. Contractor shall provide a detailed drawing stamped by a post tension concrete engineer, showing the spacing and layout of the entire post tensioned area shall be submitted for approval.
  - 3. Product Samples and Information:
    - a. Provide sample of the materials provided in the material cut sheets appropriate. Samples can be delivered to the site for review by the Owner's Representative.

#### DELIVERY, STORAGE AND HANDLING

- A. Deliver, store and handle products in exact accordance with the Manufacturer's requirements and specifications.
- B. Products delivered to the site that are not in compliance with the requirements of this Section shall be removed from the site immediately at no cost to the Owner.

#### PROJECT CONDITIONS

- A. Weather Limitations: No part of the construction shall be conducted during a rainfall or when rainfall is imminent, or unless both ambient and materials temperatures are at least 40 degrees F and rising.
- B. After a rainfall, sufficient time shall be given to allow surfaces and infill materials to dry before resuming work. Surfaces and materials shall be dry, as well as clean. Adhesives should not be applied within 12 hours after rainfall, or when rainfall is forecast.

WARRANTY

- A. Warranty: The post tension Subcontractor shall warranty the court surface for 20-years from the date of final project acceptance.
- B. Performance Testing:
1. The contractor shall provide compression strength testing of the concrete to show compliance with the Specifications.

**PART 2 – PRODUCTS**GENERAL

- A. The Subcontractor is responsible for obtaining stamped structural detailed drawings for the design and installation of the post-tension concrete slab from a post-tension concrete engineer. The Product Information outlined below is to considered general and shall be designed and detailed by the Subcontractor's post-tension concrete engineer.

SUBBASE LINER

- A. The subbase liner shall be 6mm polyethylene plastic sheeting delivered in rolls to the site.

FORMS

- A. Forms shall be from materials typically used for post-tension concrete construction.

COURT EQUIPMENT

- A. Contractor to install Tennis Equipment manufactured by Edwards Sports Products or approved equal.
- | <u>Model#</u> | <u>Description</u>  |
|---------------|---|
| 5198/F        | Square Tennis Net Posts – Socketed, 76mm square x 3mm thick steel (set of 2)            |
| 5001/Q        | Edwards Championship Tennis Net – 3.5mm netting, quad stitched vinyl headband           |
| 5198/SS       | Standard sockets for 76mm square tennis posts   |
| 5242          | Tennis Net Centre Strap with Centre Band & Swivel & Hook<br>Anchor for net center strap |

CABLES AND ANCHORAGES

- A. The cables used for stressing the concrete shall confirm to ASTM A-416 with the diameter, wire stress quantity and ultimate strength to be determined by the post-tension concrete engineer in his design. All post tension cables must be supplied by a PTI certified plant.
1. Strands shall be coated with a permanent rust preventative lubricant and wrapped with plastic sheathing. If strand sheathing is damaged or removed it is to be repaired by taping.
  2. A maximum of 12" exposed strand is permitted at the dead end anchor and 2" at the live end anchor.
- B. End anchorage devices will conform to Post Tension Institute (PTI) specifications. All dead end anchorages must be power seated. All strands are to be supported to prevent vertical and horizontal movement during concrete placement. Concrete must be well consolidated especially in the vicinity of strand anchorages.

CONCRETE SLAB

- A. Slabs shall be designed using acceptable engineering practices in accordance with the American Concrete Institute Building Code Requirements for reinforced concretes and the Post Tensioning Institutes tentative specifications for post-tensioning materials.
1. Cement: Cement shall be 3,000 pounds mix, with a minimum cement factor of 515 pounds.
  2. Water: Water/cement ratio shall be .50.
  3. Slump: Shall be approximately 6" with the use of water reducers depending on weather conditions on day of concrete placing.
  4. Aggregate: Aggregate shall conform to standard specifications for concrete aggregates ASTM C-33. Maximum aggregate size of ¾".
  5. Air Entrainment: Air entrainment by total volume of concrete shall be 0% for ¾" max size coarse aggregate.

- B. All concrete contents, mixing, delivery and placing shall meet General American Concrete Institute Construction Practices.
- C. The concrete shall have a compressive strength of not less than 3,000 pounds after 28 days. Concrete must attain a compressive strength of 2,200 pounds per square inch before final stressing.

### **PART 3 – EXECUTION**

#### **GENERAL**

- A. All installation operations shall be performed by personnel fully familiar with the materials and their application, under the full time direction and supervision of the CTCB.

#### **SUBGRADE AND SUBBASE VERIFICATION**

- A. The Subcontractor responsible for the post-tension concrete work will review the subgrade and subbase and provide written approval of the subgrade and subbase prior to beginning work. It is recommended that the Subcontractor review the subgrade and subbase work while it is being prepared in addition to the final surface. Both the subgrade and subbase shall be compacted to a minimum density of 95%.
- B. The final subbase surface shall be laser graded using a dual-laser system to a tolerance of 1/8" in 10'.

#### **FORMS**

- A. Forms shall be installed around perimeter of court and secured to the ground with stakes to prevent movement during placement of concrete. Forms shall be straight and carry a consistent slope mimicking the grades shown on the plans.
- B. ½" holes shall be drilled in forms to allow the insertion of cables.

#### **ATHLETIC EQUIPMENT**

- A. The Subcontractor and General Contractor shall coordinate in the installation of Athletic Equipment in the areas of the slab. All Equipment shall be installed per the manufacturer's recommendations and approved shop drawings.

#### **SUBBASE LINER**

- A. Install two layers of the subbase liner over subgrade and tape all seams. The polyethylene acts as a moisture barrier and reduces friction when placing slab under compression.

#### **CABLES**

- A. Cables will be spaced on specified centers and anchored as directed in the Post Tension Concrete Engineer's drawings.

#### **CONCRETE CONSTRUCTION**

- A. Joints
  - 1. Courts shall be poured monolithically.
- B. Placing and Finishing
  - 1. Concrete shall be leveled and placed using a concrete laser screed. Recommended Practice for Concrete Floor and Slab construction. The final finish shall be a smooth trowel finish.
- C. Surface Tolerance
  - 1. The concrete surface shall be flat to within 1/8" under a 10" straight edge.
- D. Curing
  - 1. Curing time shall be in accordance with surfacing systems manufacturers recommendations ordinarily not less than twenty-eight days. Timing is critical on all of the above due to the possibility of disturbing the finished surface.

- 2. The concrete shall have a compressive strength of not less than 3,500 pounds after 28 days. Concrete must attain a compressive strength of 2,000 pounds per square inch before final stressing.

**STRESSING**

- A. All initial and final stressing shall be completed based on the Post-Tension Concrete Engineers design and requirements as outlined in his drawings.

**ACCEPTANCE**

- A. Should any imperfections develop in the substrate or surface prior to the final acceptance of the work they shall be properly repaired with the removal and replacement of materials as required.
- B. All such repair work shall be done at no additional cost to the Owner.

**CLEAN UP**

- A. The Subcontractor shall provide the labor, supplies and equipment as necessary for final cleaning of surfaces and installed items.
- B. Surfaces, recesses, enclosures, etc. shall be cleaned as necessary to leave the work area in a clean condition ready for the installation of tennis court surfacing.

**PART 4 – MEASUREMENT AND PAYMENT**

Pay Item

Pay Unit

Post Tension Concrete Tennis Courts

Square Yard

Separate measurement and payment will not be made for excavation and disposal of excavated material and base preparation. Payment for same shall be included in the bid prices submitted on the bid form for all bid items requiring same.

Separate measurement and payment will not be made for the furnishing and installation of the subbase liner and reinforcement and shall be included the bid price submitted on the bid form for all bid items requiring same.

**SECTION 2L – PERIMETER CONCRETE CURB****PART 1 – GENERAL**

## GENERAL REQUIREMENTS

- A. Examine all other Sections of the Specifications for requirements that affect work of this Section whether or not such work is specifically mentioned in this Section.
- B. Coordinate work with that of all other trades affecting, or affected by work of this Section. Cooperate with such trades to assure the steady progress of all work under the Contract.

## WORK INCLUDED

- A. Perform all work required to complete the work of the Section, as indicated. Such work includes, but is not limited to, the following:
  1. Cast-in-place concrete perimeter curb.

## RELATED WORK UNDER OTHER SECTIONS

- A. Earthwork
- B. Post Tension Concrete
- C. Tennis court fencing

## REFERENCES

- A. Comply with applicable requirements of the following standards. Where these standards conflict with other specified requirements, the most restrictive requirement shall govern.
  1. American Society for Testing and Materials (ASTM):
  2. American Sports Builders Association (ASBA)

## SUBMITTALS

- A. Complete shop drawings of curb detail. Curb to be 12" wide by 18" deep. The concrete curb, fence post footings and the post tension slab need to be separate pours.

## DELIVERY, STORAGE, AND HANDLING

- A. Deliver manufactured products in manufacturer's original, unopened, and undamaged containers with labels intact and legible.
- B. Store and handle manufactured products to prevent damage and deterioration.

**PART 2 – PRODUCTS**

## CAST-IN-PLACE CONCRETE CURB

- A. Ready-mix concrete shall conform to ASTM C-94, the batch plant shall be certified in compliance with the National Ready Mix Concrete Association standards. Concrete shall be 4000 psi.
- B. Forms shall be steel or wooden forms at the Contractor's option and as approved by the Owner's Representative. Provide forms capable of producing uniform, straight, or curved concrete surfaces. Use only non-staining form release compounds.
- C. Portland Cement shall conform to ASTM C-150, type as required. Use only one brand of cement throughout the project. Limit the temperature of the cement to 140 degrees Fahrenheit when delivered to the batching plant.
- D. Aggregates shall conform to ASTM C-33. Provide aggregates with a long history of successful use in similar work and conditions. Grade fine aggregates from 1/4" to fines. Grade coarse aggregates from 1/4" to size specified.

- E. Water shall be clean, potable and free of all impurities that are detrimental to concrete.
- F. Air-entraining admixtures shall conform to ASTM C-260; use only admixtures which have been accepted in the mix design.
- G. Water reducing admixtures shall conform to ASTM C-494; use only admixtures which have been accepted in the mix designs.
- H. Curing/sealing compound shall be equivalent to Day-Chem Sil-Cure J13.
- I. Finishing of concrete curb shall be a light broom finish with edgers applied to either side of the curb. Tool joints to be installed along both sides of the curb and on either side of every fence post.
- J. Expansion materials:
  - 1. Expansion joints shall be located at the end of all curb runs and at a maximum of 60'.
  - 2. Expansion joint filler shall be preformed, non-bituminous type joint filler conforming to ASTM D 1752, Type II, similar to Sealtight Cork Expansion Joint Filler, manufactured by W.R. Meadows, Inc., Elgin, IL 60120, or approved equal.
  - 3. Premolded filler shall be one piece for the full depth and width of the joint leaving a sealant recess as indicated and shall be an asphaltic material.
  - 4. Use of multiple pieces of lesser dimensions to make up required depth and width of joint will not be permitted.
  - 5. Control joints shall be tooled on either side of every fence post.

Causes for Rejection of Curb

Concrete curb or curb and gutter shall be rejected and ordered replaced by the Engineer if any or all of the following should occur or exist:

- A. Staining or discoloration of curb.
- B. Curb is out of alignment.
- C. Curb is out of grade.
- D. Expansion joints are not perpendicular to roadway.
- E. Joints and surfaces are improperly finished.
- F. Expansion joints protrude from curb.
- G. Cracks, chips, or other damage occur in construction or maintenance period.
- H. Settlement of curb.
- I. Inspection not asked for prior to pouring curb.
- J. Improper vibration of concrete.
- K. Vandalism during initial setup of concrete.
- L. Excessive laitance or efflorescence

**PART 4 – MEASUREMENT AND PAYMENT**

<u>Pay Item</u>	<u>Pay Unit</u>
12" x 18" Concrete Vertical Curb	Linear Foot

Payment for the concrete curbs, including bedding, reinforcement, etc., will be made at the linear foot price bid for said items as listed in the Bid Form for quantities actually installed.

Separate payment will not be made for removal, disposal and replacement of curbs rejected due to the causes of rejection listed above.

The Contractor is herein advised that no payment will be made for new defects found in existing and proposed curb as a result of the methods and operations of the Contractor as determined by the Engineer.

**SECTION 2M – PRIME COATING SPORTS SURFACE****PART 1 – GENERAL**

## SYSTEM DESCRIPTION

- A. The Prime Coating System is a patented sports surface used for tennis courts, basketball courts, roller hockey, and multi-use courts over post tension concrete slabs. The Prime Coating System combines state of the art polyurethane technology with state of the art acrylic technology. When the system is complete the post tension concrete slabs are sealed, waterproofed and then finished with high strength acrylic color coats.

## SUBMITTALS

- A. Submittals Package: Submit the shop drawings, product data, and samples specified below at the same time as a package.
- B. Shop Drawings: When there is a proposed deviation from the contract documents, submit the revised detail, labeled as such for approval. The revised detail shall show existing conditions and shall be referenced directly to the related details on the contract drawings.
- C. Product Data: Catalog sheets, specifications, and installation instructions for each material specified.
- D. Samples:
1. Classic Turf's Concrete Primer data sheets.
  2. Nova Sports USA, NOVAPLAY data sheets.
- E. Quality Control Submittals:
1. Applicator's Certification:
    - a. Submit a letter certifying that the applicator has been actively installing the Classic Turf's Prime Coating System for a minimum of 3 years.
    - b. Submit the names and addresses of 3 previous projects. Include the type and size of each project, and the name and telephone number of a contact person at the project location.
    - c. Submit a letter certifying that the supervisor or foreman and the workers applying the Prime Coating System have at least 3 years experience in the application of the Prime Coating System.
  2. Company Field Advisor:
    - a. Submit the name, address, and telephone number of the Company Field Advisor who will be assigned to this project.

## DELIVERY, STORAGE, AND HANDLING

- A. Delivery: Deliver all materials to the site in the manufacturer's labeled, unbroken containers.
- B. Storage:
1. Do not double stack pallets of concrete sealer or acrylic paint.
  2. Store all materials away from high heat, flames, and sparks.
  3. Do not let any material freeze.
- C. Handling:
1. Handle all materials in a manner to prevent damage. Mark and remove all damaged material from the site.

## PROJECT CONDITIONS

- A. Do not execute the work of this section unless the Classic Turf Representative is present.
- B. Do not execute the work of this section unless the substrate is smooth, dry, and free of all dirt, dust and debris.
- C. Unless approved otherwise by the Classic Turf Representative, do not execute the work of

this section when the air or surface temperature is below 60 degrees F.

- D. Do not apply any materials in areas where dust is being generated from adjacent work areas. If necessary erect temporary dust barrier or screens to keep the area being waterproofed clean and free of dust and debris.

## **PART 2 – PRODUCTS**

### **CONCRETE PRIMER & SEALER**

- A. The Classic Turf concrete primer and sealer is a one part, moisture curing, waterproof polyurethane mixed with texture.
- B. Physical Properties:
- |                         |                               |
|-------------------------|-------------------------------|
| Polymer type            | Polyurethane                  |
| Viscosity               | 800 - 1200                    |
| Working Time            | 20 - 30 minutes               |
| Solids (%)              | 95 +/- 2 ASTM D1269           |
| Specific Gravity        | 1.25 +/- 10 ASTM D1475        |
| Tensile Strength        | 1400 +/- 200 ASTM D412        |
| Elongation (%)          | 50 +/- 10 ASTM D412           |
| Freeze/Thaw             | Unlimited Cycles              |
| Application Temperature | 60F - 120F                    |
| Water Permeability      | Impermeable                   |
| Weight                  | 10.5 +/- 1.0 lbs per gal      |
| Coverage                | 75 - 100 square foot per gal. |
| Adhesion to subsurface  | 4000 psi ASTM D-4545          |
| Nonflammable            |                               |
| No Shrinkage            |                               |
| No Solvent              |                               |
| VOC Compliance          |                               |

### **ACRYLIC COATING**

- A. Court Surface Materials shall be: Novacrylic Novaplay Base and Novacrylic Novaplay, as manufactured by Nova Sports U.S.A. Inc., 6 Industrial Rd, Bld 2, Milford, MA 01757 or approved equal.
- B. All Coatings shall be 100% pure acrylic, containing no asphaltic emulsions, nor any vinyl, alkyd or non-acrylic resins. The color surface system shall be factory-mixed in a ready to use format. All materials shall be delivered to the jobsite in sealed containers with the manufacturers label affixed.
- C. Substitution: If other than the product specified, the contractor must submit at least 7 days prior to the bid date a complete type written list of proposed substitutions with sufficient data, drawings, samples and literature to demonstrate to the owners satisfaction that the proposed substitution is of equal quality and utility to that originally specified. Information must include a QUV test of at least 2,000 hours illustrating the UV stability of the system.
- D. Novaplay Base Coat is a heavy duty ready to use 100% acrylic resurfacer.
- E. Novaplay is a high performance 100% acrylic ready to use textured color surface.
- F. Physical Properties
- |               |  |
|---------------|--|
| Polymer type: | 100% Acrylic                                       |
| Viscosity:    | Brookfield HAT, Spindle<br>T-C, 1RPM, 72°F, 90,000 |
| VOC:          | Novaplay Base 90 g/l, Novaplay 75 g/l              |

Weight per gallon:	Novaplay 15lb, Novaplay Base 11lb
QUV accelerated weathering:	PASS 2,000 hours

### **PART 3 – EXECUTION**

#### 517.06.01 POST TENSION CONCRETE SLAB

- A. Vapor barrier must be installed prior to pouring concrete, minimum 2 layers of 10 mil poly.
- B. Post tension concrete slab should be designed and constructed according to PTI specifications and calculations. Concrete should be a minimum 3000 psi.
- C. Slab should be designed with a minimum P/A value of 110.
- D. The Post Tension slab should be stressed in two different applications. The first should occur within 12 hours of placement. The second should occur when concrete has reached a minimum strength of 2200 psi.
- E. Concrete slab should be finished with a trowel finish.
- F. Slab should be wet cured for minimum 10 days after placement.

#### PREPARATION OF SUBSTRATE

- A. Allow concrete to cure a minimum of 21 days before application of The Prime Coating System.
- B. Remove all dirt and debris with steel scrapers, brooms, and power blower.
- C. Do not proceed with the application of the primer until the sub-surface is 100% dry.
- D. No material should be applied if temperatures are less than 50 degrees F.

#### INSTALLATION OF PRIME COATING SYSTEM

- A. Primer: Apply primer to all areas of the post tension concrete slab. Uniformly apply the primer by steel scraper at the rate of 110 to 120 square feet per gallon. Individual applying must be wearing "spiky shoes". Primer should be applied as uniformly as possible leaving not loose or extra material in areas. While the primer is still fresh broadcast 40 – 60 mesh silica sand over the primer by mechanical means. Do not broadcast sand by hand. Silica sand should be broadcasted at a rate of 2 – 3 pounds for every 4 – 5 square feet. After primer is cured and before applying Prime Coating System, surface shall be scraped and checked for any loose primer that was left during application. Any loose primer that was left may need to be grinded down before application of acrylic coating.
- B. Surface System:
  1. Primer must cure for a minimum of 24 hours before application of Prime Coating System Base.
  2. Application shall proceed only if the surface is dry and clean and the temperature is at least fifty-five degrees (55°F) and rising, and the surface temperature is not in excess of one hundred forty degrees (140°F). Do not apply coatings when rain is imminent. Each coat in the surface coating system must be completely dry before the next application. Between each coat, inspect the entire surface. Any defects should be repaired. Scrape surface to remove any lumps, and broom or blow off any loose matter.
  3. Using a Neoprene rubber squeegee apply one coat of Base coat that is Pre-Mixed at the factory.
  4. Using a Neoprene rubber squeegee apply two coats of color that is Pre-Mixed at the factory.

#### MEASUREMENT AND PAYMENT

Payment for these items will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Prime Coating System Including Line Striping (only where ordered)	Square Yard

Separate measurement and payment will not be made for tennis and pickleball courts line striping and shall be included in the bid prices submitted on the bid form for all bid items requiring same.

**SECTION 2N – TENNIS NETS, NET POSTS AND ANCHORS**

**WORK INCLUDED**

The Contractor shall furnish and install the specified net posts, center net anchors and associated equipment at the locations indicated on the contract drawings. Post and anchor footings shall be in accordance with the detail drawing or as directed by the Engineer. Footings shall be conical in shape in the dimensions indicated on the detail.

**The Contractor shall furnish and deliver to the owner, one (1) spare tennis post winder mechanisms and handles for the newly reconstructed court**

**MATERIALS**

Square tennis net posts shall be socketed, 76mm square x 3mm steel wall thickness with a baked on polyester powder coated finish and shall be model #5198/F by Edwards Sports Products or approved equal. The overall length of the net post is to be 5'-0" long and installed so that the top of the net post will be 3'-6" above finished grade of the reconstructed court surface. The tennis post sockets shall be model #5198/SS as manufactured by Edwards Sports Products or approved equal. Tennis net centre strap with centre band and swivel and hook shall be model #5242 as manufactured by Edwards Sports Products or approved equal. Net shall be Edwards Championship Tennis Net, 3.5mm netting, quad stitched vinyl headband, model #5001/Q as manufactured by Edwards Sports Products or approved equal. Net center ground anchor shall also be furnished and installed.

**SHOP DRAWINGS**

The Contractor will be required to provide shop drawings for the required structure to the Owner for approval prior to fabrication. The Contractor shall also provide a color chart. The Owner will choose a color during the shop drawing phase.

The listed manufacturer's specifications for the above items shall be considered minimum requirements. Shop drawings, design and installation details, including footing design/details are required to be submitted and approved prior to installation.

**MEASUREMENT AND PAYMENT**

<u>Pay Item</u>	<u>Pay Unit</u>
Tennis Net System (only where ordered)	Unit

Tennis net posts, ground sleeves, footings, center anchors and installation will be measured by the unit, payment shall be at the unit price bid for said item as listed in the Bid Form. A unit shall consist of materials for one court (two posts, ground sleeves, footings, net, center anchor and strap, and two brass winder mechanisms and handles).

Separate payment for the spare brass winder mechanisms and handles will not be made. Compensation for same shall be included in the price bid for the above related items.

## **SECTION 20 – CHAIN LINK FENCE**

### **WORK INCLUDED**

The Contractor shall remove, reset and/or install Chain Link Fence sections where ordered by the Engineer.

- 1) Posts  
Line posts, terminal posts, gate posts, and pull posts shall be spaced as to match the existing field condition, if not shown on the Plans, with their tops properly aligned and all shall be plumb. The Engineer reserves the right to direct the removal and replacement of any post, not aligned properly, out of plumb, incorrectly spaced, or whose footing is of insufficient size, at no additional cost to the Township. All posts shall be color coated. Color shall be decided by the Owner. A color chart must be submitted for approval to the Engineer, prior to ordering posts.
- 2) Fabric  
All fabric color shall be decided by the Owner. A color chart must be submitted for approval to the Engineer, prior to ordering fabric.  
  
Fabric: All fabric shall be 9 gauge core wire with polyvinyl chloride (PVC) finished fused on and bonded to galvanized steel as manufactured by Merchants Metals. [www.merchantsmetal.com](http://www.merchantsmetal.com), or approved equal in accordance with ASTM #A392, class 1.  
  
Steel core wire shall conform to the following:  
9 Gauge.....(0.148" diameter), PVC Coating Thickness (0.015 to 0.025 inches).  
  
Core wire shall be coated with zinc in accordance with ASTM A-641. Chain link fabric shall conform to ASTM F-688, class 2b. Mesh size shall be one inch (1") as measured between the wires with a permissible variation of plus or minus 0.250 inches. Fabric shall be knuckled, selvage top, knuckled selvage bottom and shall be height as shown on the plans.
- 3) Gates  
Gate Frames shall be welded using a MIG (wire feed welder). All welds shall be uniform and neat with no gaps, pockets, or openings to allow the formation of rust. After welding, galvanizing shall be thoroughly and properly replaced at all weld locations. The Engineer must inspect all gate frames prior to their installation, and if any defects are discovered his decision as the repair or replacement shall be final.  
  
ALL CORRECTIONS OR REPLACEMENTS SHALL BE MADE AT NO ADDITIONAL COST TO THE TOWNSHIP.  
  
Gates shall be installed as shown on the Plans. Gates shall be 6' in height. Pedestrian gates shall be easily operated with properly fitted lockable latch mechanism. Gate shall swing freely and easily from its closed and latched position.
- 4) Cleanup  
The Contractor shall remove all excess fence materials and debris caused by his operations upon completion of the fence installation.
- 5) Damage  
The contractor shall repair all areas damaged, disturbed, rutted, etc. due to his operations at no additional expense to the Township. Whether an area has or has not been damaged, disturbed, rutted, etc. shall be determined solely by the Engineer.

### **METHODS**

Contractor shall provide shop drawings for chain link fencing.

All work shall be in accordance with good quality workmanship and shall be done in a manner that minimizes disturbance to adjoining hot mix asphalt and other improvements.

MEASURE AND PAYMENT

Payment for furnishing and installing chain-link fence by a method acceptable to the engineer shall be based on the unit price bid for each item as listed in the Bid Form.

Payment for furnishing and installing chain-link fence gate by a method acceptable to the engineer shall be based on the unit price bid for each item as listed in the Bid Form.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Chain Link Fence, Non-Climbable, PVC Fused On & Bonded, 10' High (only where ordered)	Linear Foot
Chain Link Gate, Non-Climbable, PVC Fused On & Bonded, 4' Wide x 6' High (only where ordered)	Unit

Separate payment will not be made for concrete footings for fence posts.

Separate payment will not be made for color coating posts, rails, mesh, and hardware and shall be included in the bid prices submitted for all items requiring same.

Separate measurement and payment will not be made for the removal of existing fence posts, mesh, hardware and footings and shall be included in the bid prices submitted for all items requiring same.

Separate measurement and payment will not be made for the removal and reinstallation of fence mounted signs, including furnishing and installation of all hardware required to successfully mount signs. Payment for same shall be included in the bid prices submitted on the bid form for all items requiring same.

**SECTION 2P – HOT MIX ASPHALT WALKWAY**

**WORK INCLUDED**

Hot mix asphalt sidewalks shall have a minimum thickness of three inches (3"). Sidewalks shall be constructed at the locations and to the prescribed lines and grades as indicated on the plans. The subgrade shall be smooth and even and shall be compacted by rolling broken stone shall be spread to a depth of not less than four inches (4").

**MEASUREMENT AND PAYMENT**

Payment for constructing A.D.A. compliant hot mix asphalt walkway, including 4" thick stone, 3" surface course mix I-5, and joint sealer shall be based on the unit price bid per square yard as listed in the bid form and shall include the cost of all materials, equipment, labor, and other associated work including preparation and cleaning as required above to the satisfaction of the Engineer.

Separate payment will not be made for dense graded aggregate or ¾" clean stone under hot mix asphalt walkways.

Separate payment will not be made for sawcutting hot mix asphalt.

Separate measurement and payment will not be made for hot mix asphalt joint sealer. Payment for same shall be included in the bid price submitted for all items requiring same.

Separate measurement and payment will not be made for the removal of existing HMA walkway and shall be included in the bid prices submitted on the bid form for clearing site.

Payment for this item will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
Hot Mix Asphalt Walkway, 3" Thick (only where ordered)	Square Yard

## **SECTION 2Q – TRIMMING AND REMOVING TREES**

### **WORK INCLUDED**

The Contractor shall provide all labor, materials, and equipment necessary to remove trees and stumps in accordance with the specifications and where indicated on the plans and/or directed by the Engineer.

Requirements for tree trimming and removal shall also be in accordance with the Site Clearing section of these Specifications. All tree trimming and removal shall be performed after evaluation and recommendation by a Licensed Tree Expert certified in the State of New Jersey for possible conflicts with the proposed improvements.

Where directed by the Engineer, the Contractor's Licensed Tree Expert shall remove existing trees to allow for the proposed improvements. No trees are to be removed unless directed to be removed by the Engineer.

Where directed by the Engineer, trees which must be pruned shall be cut cleanly and painted with approved material by a Licensed Tree Expert. If the tree is damaged, the wood shall be repaired and painted with approved material.

The Contractor's Licensed Tree Expert shall utilize methods acceptable to the Engineer when trimming and removing existing trees. Any trees that run through overhead wires shall first be topped by the appropriate utility company. The Contractor shall be required to coordinate this work with the effected utility company.

In the performance of tree trimming and removal, the Contractor shall be responsible for the preservation of all public and private property, existing trees, plants and other vegetation that are to remain within or adjacent to the Project and shall use every precaution necessary to prevent damage or injury thereto.

Any damage done to the surrounding properties as a result of the tree removal work shall be the sole responsibility of the Contractor and shall be repaired at his expense.

The Contractor will be required to properly dispose of all trees, tree branches, tree stumps, roots and leaves in a manner that conforms with current Solid Waste Disposal Regulations.

Any tree removal or tree trimming activities that may adversely affect traffic patterns in the area must first be coordinated with the local Police Department.

For the purpose of this section, a tree shall be defined having a trunk of a diameter greater than or equal to four (4) inches in diameter measured four and a half (4-1/2) feet above the ground and measuring at least three (3) feet in height measured from the existing ground surface to the top of trunk. Any trees less than three (3) feet in height shall be considered to be stumps and less than four (4) inches in diameter measured four and a half (4-1/2) feet above the ground shall be paid for in accordance with the Site Clearing section of these specifications.

The Contractor shall provide all work necessary to satisfactorily complete the work in a first class manner acceptable to the Engineer.

### **MEASUREMENT AND PAYMENT**

Separate measurement and payment will not be made for the required trimming of any tree branches. The cost thereof shall be included in the bid price submitted on the Bid Form for all items requiring same.

**SECTION 2R - TOPSOIL, FINE GRADE, FERTILIZE, LIME AND SEED**

WORK INCLUDED

The Contractor shall provide all labor, materials, and equipment necessary to furnish and install topsoil, lime, fertilizer, and seed in accordance with the specifications and where indicated on the plans.

It is intended to provide topsoil, lime, fertilizer, and seed for all those areas of the site that have been disturbed during the work on this contract and where indicated.

Proposed topsoil thickness shall be a minimum of 6" unless otherwise indicated on the plans.

TOPSOIL

All topsoil taken from original excavations, if available, shall be carefully and separately stored and, after completion of the rough grading, shall be shredded, screened (using a 3/8" vibratory harp deck), spread, graded, and rolled to conform with the elevations shown on the drawings or as directed by the Engineer. Additional topsoil as required for these areas shall be furnished by the Contractor at no additional cost. A minimum thickness of topsoil of 6" will be required. All stockpiled topsoil shall be thoroughly cleared of all sticks, roots, branches, coarse sods and other deleterious matter, and all stones larger than 2" in diameter before it's spread. Topsoil shall not be handled or spread when it is in a frozen or muddy condition, or otherwise unsuitable for handling.

Import Topsoil: (if and where deemed necessary)

Additional topsoil to be imported if required shall be screened topsoil approved by the Engineer. The material shall be inspected and written approval received by the contractor prior to delivery to the site. Inspection shall be by representative samples or by onsite inspection at the source by, and at the discretion of the Engineer. Imported topsoil shall be free of glass, plastic and any other non-organic materials. If any such contaminants are discovered after spreading, the topsoil shall be removed and replaced, or the contaminants removed to a degree satisfactory to the Engineer.

Specifications for Imported and / or Amended Onsite Topsoil:

- Unacceptable Topsoil Sources: Do not obtain topsoil from the following sources:
  1. Areas containing chemically contaminated soils
  2. Areas from which the original surface has been stripped or covered over, such as borrow pits, open mines, demolition sites, dumps, and landfills
  3. Wet excavations
  4. Acid producing soils
- Provide topsoil that conforms to the pH requirements specified below, when tested according to ASTM D 4972.

<u>pH Range</u>	<u>Acceptability / Remediation</u>
pH < 4.1	Topsoil is UNACCEPTABLE
4.1 ≤ pH < 6.0	Add pulverized lime to increase the pH to 6.5 before use
6.0 ≤ pH < 7.0	Topsoil is acceptable. No remediation needed
7.0 ≤ pH < 7.2	Decrease pH to at least 6.8 before use
pH ≥ 7.2	Topsoil is UNACCEPTABLE

- Organic Content requirement shall be between the range of 2 to 7 percent by weight. The organic content shall be determined according to AASHTO T 194, except that the sample is to be taken from oven-dried soil passing a No. 10 sieve. Any soil additives being considered to increase the organic content of selected import topsoil needs to be reviewed and approved by the Engineer prior to the amending process.
- Gradation / particle Size: Provide topsoil conforming to the following particle size requirements and that has no more than 20 percent retained on a No. 10 sieve when mechanically graded.

<u>Particle Size</u>	<u>Percent</u>
Sand (2.0mm to 0.05 mm)	60 – 80
Silt (0.05 mm to 0.005mm)	10 – 15
Clay (0.005 mm to smaller)	5 – 10*
Gravel (2.0mm or greater)	< 4

\* - If more than 50 percent of the sand portion is larger than 0.5 millimeters, the allowable range for clay is 10 to 20 percent.

No topsoil shall be spread before the completion of all construction in the area or before all fills are fully compacted.

Before spreading topsoil, the sub-grade shall be cleared of all stones more than 2" in diameter, all coarse roots, sticks, and debris. Any portions of the sub-grade that has been compacted to a hard surface shall be pulverized to a depth of 3" by plowing, or other methods acceptable to the Engineer.

LIME, FERTILIZING AND SEEDING

A soil analysis shall be provided by the contractor if requested by the owner. Ground limestone shall be evenly applied to all areas to be seeded at the rate to be determined or, at a minimum, 4.5 pounds to every 100 square feet of surface, and shall be thoroughly and evenly mixed with the soil to a depth of 6" below finished grade.

All areas to be seeded shall be fine graded to remove all ridges and depressions and the surface shall be cleaned of all stones greater than 2" in diameter, and other debris.

After preparation for seeding, and at least nine days before seeding, organic fertilizer approved by the Engineer shall be incorporated into the soil at a rate of one ton per acre, to a depth of two inches. The soil shall then be thoroughly watered.

Seed shall later be spread and raked into the prepared soil at a rate of 0.4 lbs. per 100 sq. ft. Seed shall be rolled with a water ballast roller, and shall be watered, protected, and tended until there is a hardy stand of grass.

All dates and schedules for seeding operations shall be as approved by the Engineer. Seeding shall be done in favorable weather, in the fall, where possible, and in early spring, if necessary, to complete unfinished areas.

When seeding has been completed, hydro-mulch shall be installed in accordance with the manufacturer's package instructions and recommendations.

Seed to be furnished and installed shall be a high quality seed mix that is traffic and drought resistant and recommended for athletic field use. The specific seed mix proposed shall be approved by the Engineer prior to ordering.

**For athletic fields**, seed to be furnished and installed shall be a high quality seed mix that is traffic and drought resistant and recommended for athletic field use. The specific seed mix proposed shall be approved by the engineer prior to ordering.

Seed mix to be furnished and installed shall be "Team Mates Plus" as distributed by Lesco, Inc., or an approved alternate.

The above seed mix consists of:

- 90% Hard Fescue
- 90% Chewing Fescue
- 90% Strong Creeping Red Fescue
- 95% Perennial Ryegrass

**For general seeding of disturbed areas**, seed to be furnished and installed shall be a high quality seed mix, as per Soil Erosion and Sediment Control Standards for Permanent Seed.

Permanent seed mix consists of:

- 175 lbs/acre Hard Fescue and/or Chewing Fescue and/or Strong Creeping Red Fescue
- 45 lbs/acre Perennial Rye Grass
- 45 lbs/acre Kentucky Blue Grass (Blend)
- 265 lbs/acre

The seed shall contain practically no seeds of noxious weeds and shall be delivered mixed in uniform sealed bags with tags/labels showing weights, analysis and vendor's name. Bags and labels shall be saved and given to the Engineer or Owner.

WATERING AND CUTTING LAWNS

The contractor shall take all necessary steps to produce a satisfactory lawn covering. Such steps may include the thorough watering of the new lawn until it has received its second cutting.

The cost of such watering shall be borne by the contractor, and the equipment and manpower required, shall be furnished by the contractor.

The contractor shall also be held responsible for cutting of lawns until the project is closed out and accepted by the owner. Any lawn areas that have not developed after two (2) cuttings shall be cut and re-seeded or sodded, fertilized, watered, and cut until a full lawn is produced. Should crab grass or broadleaf weed prevention be deemed necessary by the engineer, same shall be applied at no additional cost.

The cuttings of lawn shall not occur closer than 7 to 10 days, or as directed by the Engineer.

Lawn areas must be hearty and uniform prior to acceptance by the owner.

MEASUREMENT AND PAYMENT

<u>Pay Item</u>	<u>Pay Unit</u>
Topsoiling, 6" Thick (only where ordered)	Square Yard
Fertilizing and Seeding, SESC Type 14 (only where ordered)	Square Yard
Straw Mulching	Square Yard

Payment for topsoil, fine grading, fertilizing, lime, and seed will be made at the lump sum price bid for said item as listed in the bid form for the amount actually installed.

**SECTION 2S – ALLOWANCE FOR UNKNOWN SUBSURFACE CONDITIONS****MEASUREMENT AND PAYMENT**

The contractor shall allow fifteen thousand dollars and zero cents (\$15,000.00) to cover this work. Nothing herein shall constitute a guarantee that the contractor is entitled to payment of the full allowance or any portion of the allowance. If no work is done under this item, the full amount of fifteen thousand dollars and zero cents (\$15,000.00) will not be paid by the Owner to the contractor. To qualify for payment, work must be ordered by the Engineer in writing.

**SECTION 2T – CLEAN-UP AND RESTORATION****WORK INCLUDED**

The general Contractor shall throughout the course of the work maintain the site in a presentable condition to the satisfaction of the Engineer. The general Contractor shall be responsible for all periodic cleanup and coordination of cooperative efforts of all Sub-Contractors. All Contractors involved in the work shall cooperate fully with direction by the Engineer.

Periodic clean-ups shall include, but is not necessarily restricted to, storage of equipment and material, removal of rubbish, and any material which may either become unsightly or impede progress of the work or cause unsafe conditions. In general, the site shall be maintained in a neat and orderly fashion at all times.

At the conclusion of the work, the Contractor shall remove all unused material, equipment and debris, excess fill, and unwanted evidence of construction.

During the final clean-up period, the Contractor shall restore all areas damaged due to construction activity. Each Contractor shall be responsible for damage due to his operations; however, the general Contractor shall assume the overall responsibility for any damage. All Contractors and subcontractors shall co-operate with the general Contractor in this regard.

Grass, shrubs, walks, and other site related work damaged during construction shall be restored to the satisfaction of the Engineer.

The Contractor is responsible to leave the site in a condition intended by the plans and areas not included in the contract documents shall be left in a state equal to or better than that existing prior to the start of the contract.

**PAYMENT**

No separate payment shall be made for clean-up and restoration unless otherwise noted on the plans. Payment for all clean-up and restoration related work shall be included in the unit price bid for each item requiring same as listed in the Bid Form.