

TOWN OF CUTLER BAY

**PUBLIC WORKS DEPARTMENT
INVITATION TO BID
ITB #15-01**



SW 212 STREET DRAINAGE IMPROVEMENTS

BID DUE DATE & TIME
April 30, 2015 at 2:00 PM

MANDATORY "PRE-BID" MEETING DATE & TIME:
April 13, 2015 at 10:00 AM

**TOWN OF CUTLER BAY
INVITATION TO BID
SW 212 STREET DRAINAGE IMPROVEMENTS
ITB #15-01**

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**TOWN OF CUTLER BAY
SW 212 STREET DRAINAGE IMPROVEMENTS
ITB #15-01**

The Town of Cutler Bay is requesting bids from qualified proposers to provide drainage improvements for the Town of Cutler Bay. **Interested proposers should visit the Town's website at www.cutlerbay-fl.gov to obtain the Invitation to Bid package. Packages may also be picked up during normal business hours at the office of the Interim Town Clerk, Jacqueline N. Wilson, located at:**

**Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189**

Sealed submittals including one (1) original and three (3) copies of the submittals PLUS a CD containing all documents submitted must be received **no later** than **2:00 P.M. on April 30, 2015** and be clearly marked on the outside, **"ITB #15-01 SW 212 STREET DRAINAGE IMPROVEMENTS"**, by **Jacqueline N. Wilson, Interim Town Clerk, Town of Cutler Bay, 10720 Caribbean Blvd., Suite 105, Cutler Bay, Florida, 33189**. Late submittals and electronic submittals will **not** be accepted.

A MANDATORY "pre-bid" meeting will be held on April 13, 2015 at 10:00 A.M. in the Town Hall Council Chambers, 10720 Caribbean Blvd., Cutler Bay, Florida 33189.

Pursuant to Town Code, public notice is hereby given that a "Cone of Silence" is imposed concerning the Town's competitive purchasing process, which generally prohibits communications concerning the ITB from the time of advertisement of the ITB until the Town Council meeting at which the Council considers the Town Manager's recommendation to the Town Council concerning the competitive purchase transaction. Please see the detailed specifications for the public solicitation for services for a statement fully disclosing the requirements of the "Cone of Silence".

Pursuant to Ordinance 06-11; Town Code Chapter 8A; Section 7.6 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor. Please see the detailed specifications of this solicitation for further details.

The Town of Cutler Bay reserves the right to accept or reject any and/or all bids or parts of bids, to workshop or negotiate any and all bids, to waive irregularities, and to request re-bids on the required materials or services.

Rafael G. Casals
Town Manager



SECTION 2
INSTRUCTIONS TO BIDDERS

1.01. SEALED BIDS

Sealed bids for furnishing all goods and services necessary to complete the Work specified in these documents will be received at:

Date: April 30, 2015

Time: 2:00 PM

**Place: Town Hall
10720 Caribbean Blvd., Suite 105
Cutler Bay, Florida 33189**

1.02 SCHEDULE OF EVENTS

No.	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of ITB & Cone of silence begins	3/20/2015	9:00 AM
2	<u>Mandatory Pre-Bid Conference</u> 10720 Caribbean Blvd., Council Chambers Cutler Bay, Florida 33189	4/13/2015	10:00 AM
3	Deadline to Submit Questions	4/17/2015	1:00 PM
4	Deadline to Town Responses to Questions	4/24/2015	5:00 PM
5	Deadline to Submit Bid-Response	4/30/2015	2:00 PM
6	Evaluation of Bid Responses	5/1/2015 through 5/8/2015	9:00 AM to 5:00 PM
7	Announcement of Selected Contractors/Cone of Silence ends	5/22/2015	2:00 PM

*The Town reserves the right to change the scheduled dates and time.

1.03 DEFINITION OF TERMS

Certain terms used in these documents are defined as follows:

Bid\Proposal	The bid documents submitted by the Bidder.
Bidder	Any person, firm or corporation submitting a proposal for the Work covered by these specifications or his duly authorized representative.
Town	The Town Council of the Town of Cutler Bay or the Town Manager, if applicable.
Contractor	The person, firm or corporation with whom the Town has executed a contract for the Work.
Days	Days shall mean calendar days.
Responsible Bidder	In order to be considered a “responsible” bidder, the Bidder must have adequate equipment and personnel to do the Work within the time limits that are established, has adequate financial status to meet the obligations to perform the Work and has not defaulted on a prior contract.
Responsive Bidder	Any person, firm or corporation submitting a Bid for the Work whose Bid form is complete and includes all required attachments and enclosures, free from exclusions or special conditions and has no alternative Bids for any items, unless alternatives are requested in the specifications.
Work	The services required by the Contract Documents, including labor and materials.
Town Engineer	The Town’s general engineering consultant and project manager.

1.04 DELIVERY OF BIDS

All Bids, whether mailed or delivered in person, shall be submitted in a SEALED ENVELOPE bearing on the outside the following project information as well as the name of the Bidder and his address clearly marked: (One (1) Original / Three (3) copies / One (1) CD containing all documents.

SW 212 STREET DRAINAGE IMPROVEMENTS

Addressed to:

**Town of Cutler Bay
Attn: Jacqueline N. Wilson, Interim Town Clerk
10720 Caribbean Boulevard
Suite 105
Cutler Bay, Florida 33189**

All Bids must be received by the Town no later than **2:00 p.m. on April 30, 2015.**

1.05 BID GUARANTY

A certified or cashier's check drawn on a national or state bank, or bid bond, in the amount of **five percent (5%)** of the total bid, shall accompany each bid as a guarantee that the Bidder will, if award is made, execute an Agreement to do the Work for the amount proposed and furnish any required certificates of insurance and bond documents. The bid bond shall be from a surety with an A-rating or better under Best's Guidelines, made payable to: The Town of Cutler Bay.

1.06 BID FORMS

The Bidder shall submit an original Bid on the bid forms attached to this ITB. The Bidder shall fill in all the blank spaces completely for each and every unit item for which a Bid is tendered. The Bidder shall state the price, typewritten or in ink, for which he proposes to do each item of Work. The Bid shall include: 1) Agreement/Contract; 2) Bid Forms; 3) Certificate or Evidence of Insurance; 4) Bid Guarantee; 5) Qualifications Statement; 6) Sworn Statement on Public Entity Crime Form; 7) Addenda acknowledgement, if applicable; 8) Anti-Kickback Affidavit; 9) Non-Collusive Affidavit; 10) Drug Free Workplace form; and 11) a Corporate Resolution evidencing authorization to submit Bid, if applicable.

1.07 SIGNATURE ON BID

The Bidder shall sign the Bid as follows: If the Bid is made by an individual, the Bidder's name and address shall be shown. If made by a firm or partnership, the name and address of each member of the firm or partnership shall be shown. If made by a corporation, the person signing the Bid shall show the name of the state under the laws of which the corporation is chartered, also the names and business addresses of its corporate officers. The Bid shall bear the seal of the corporation attested by the secretary. Anyone signing the Bid as agent shall include in the Bid legal evidence of his/her authority to do so.

1.08 COST OF BIDS

All expenses involved with the preparation and submission of Bids to the Town or any work performed in connection therewith, shall be borne by the Bidder(s). No payment shall be made for any responses received, nor for any other effort required of or made by the Bidder(s) prior to commencement of work as defined by the Agreement duly approved by the Town Council.

1.09 QUALIFICATION OF BIDDERS

Each Bidder shall submit a completed Qualification Statement utilizing the form attached.

1.10 RIGHT TO REJECT BIDS

The Town of Cutler Bay reserves the right to accept or reject any and/or all Bids or parts of Bids, to workshop or negotiate any and all Bids, to waive irregularities, and to request re-Bids on the required materials or services.

1.11 AWARD OF CONTRACT-

1.11.1 The Award of the Contract will be to the lowest Responsive and Responsible Bidder, whose qualifications indicate the Award will be in the best interest of the Town and whose Bid complies with the requirements of these specifications. In no case will the Award be made until all necessary investigations have been made into the responsibility of the Bidder(s) and the Town Manager is satisfied that the Bidder is qualified to do the Work and have the necessary organization, capital and equipment to carry out the Work in the specified timeframes. In evaluating responsibility, the Town may also consider previous contracts with the Town, past performance and experience with other contracts, compatibility of the project team with Town personnel, and any other criteria deemed relevant by the Town.

1.11.2 If the Town accepts a Bid, the Town will provide a written notice of Award to the lowest Responsive and Responsible Bidder, who meets the requirements of Section 1.11.1.

1.11.3 If the successful Bidder to whom an Agreement is awarded forfeits the Award by failing to meet the conditions of subsection 1.13, the Town may, at the Town's sole option, award the Agreement to the next lowest Responsive and Responsible Bidder or reject all Bids or re-advertise the Work.

1.11.4 The Town, at its sole discretion, may consider the lowest and responsive bidder as the bidder who has the lowest bid Amount for: SW 212 STREET DRAINAGE IMPROVEMENTS

1.12 RETURN OF THE BID GUARANTY

All Bid Guarantees of unsuccessful Bidders will be returned after the Agreement is awarded and executed, if requested by unsuccessful bidder.

1.13 EXECUTION OF CONTRACT

The successful Bidder(s) shall, within ten (10) days of receipt of a written notice of the Award of the Agreement, deliver to the Town a fully executed Agreement and all requested certificates of insurance and bonds.

1.13.1 FORFEITURE OF BID GUARANTY FOR FAILURE TO EXECUTE CONTRACT

The failure of the successful Bidder(s) to execute an Agreement and submit required insurance certificates and bonds as specified in subsection 1.13 from "Standard General Conditions of the Construction Contract" will result in forfeit of the Award. Each Bidder agrees in advance that the Town will sustain certain damages too difficult to accurately ascertain. Accordingly, if the Award is forfeited under this Section, the

amount of the Bid Guaranty of the forfeiting Bidder will be retained by the Town, not as forfeiture or a penalty, but as liquidated damages.

1.14 TIME AND AWARD

The Bidder agrees to abide by the overall and unit prices quoted in the Bid for up to ninety (90) days from the date of bid opening to allow for the Town review, award, and execute the Agreement.

1.15 INTERPRETATION AND CLARIFICATION

All questions about the meaning or intent of the Bid Documents and specifications shall be directed in writing to the Town Clerk's Office, Jacqueline N. Wilson at 10720 Caribbean Blvd., Suite # 105, Cutler Bay, Florida 33189 or e-mail: jwilson@cutlerbay-fl.gov. All correspondences whether in writing or through e-mail must be titled "SW 212 STREET DRAINAGE IMPROVEMENTS." Interpretation or Clarifications considered necessary by the Town in response to such questions will be issued by means of addenda electronically mailed or delivered to all parties that are on record with the Town Clerk as having requested and received the Bid Documents. Provided however that it is each Bidder's sole responsibility to be informed of any changes to the ITB in the form of written addenda and the Town shall not be responsible for any Bidder's failure to receive same. The Town has the right to rely on all Bids received and the submittal of a Bid shall represent the Bidder's acknowledgement that he has read and understood the ITB and any addenda thereto. Written questions must be received by April 17, 2015 at 1:00 PM. Only questions answered by written addenda shall be binding. Oral and other interpretation or clarifications shall be without legal effect.

1.16 BID MODIFICATIONS

No modifications shall be submitted by Bidder or accepted by the Town.

1.17 WITHDRAWAL OF A BID

A Bidder may withdraw his Bid at any date and time prior to the time the Bids are scheduled to be opened. Notice of withdrawal should be made in writing to the Town Clerk's Office, Jacqueline N. Wilson, at 10720 Caribbean Blvd., Suite # 105, Cutler Bay, Florida 33189.

1.18 OPENING OF BIDS

Bids will be publicly opened and read aloud at the appointed time and place stated in the Invitation to Bid/Request for Proposals. Late Bids will not be considered. No responsibility will be attached to any Town Staff for the premature opening of a Bid not properly addressed and identified. Bidders or their authorized agents are invited to be present at the bid opening.

1.19 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town

in excess of the threshold amount provided in Section 287.917, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Contractor shall result in rejection of the Bid, termination of the contract, and may cause Contractor debarment.

1.20 TOWN LICENSES, PERMITS AND FEES

In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, each license, permit, or fee a Contractor will have to pay the Town before or during the Work or the percentage method or unit method of all licenses, permits and fees required by the Town and payable to the Town by virtue of the Work as part of the Agreement are as follows:

1.20.1 Contractor shall have and maintain during the term of the Agreement all appropriate Town licenses, and fees for which shall be paid in full in accordance with the Town's Fee structure for such licenses. THERE WILL NOT BE ANY PERCENTAGE REDUCTION OR WAIVING OF TOWN LICENSE FEES.

1.20.2 During the performance of the Agreement there may be times when the Contractor will be required to obtain a Town permit for the Work. It is the responsibility of the Contractor to insure that he or she has the appropriate Town permits to perform such Work as may become necessary during the performance of the Agreement. Any fees related to Town required permits in connection with the Agreement will be the responsibility of the Contractor and will not be reimbursed by the Town. Licenses, permits, and fees that may be required by County, State or Federal entities are not included in the above list.

1.21 INSURANCE

The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in Article 5-Bond and Insurance. The Bidder shall include with his or her Bid either Certificates of Insurance evidencing same or documentation from his or her insurer evidencing the insurability of the Bidder to meet the insurance requirements.

1.22 BONDS

A Performance and a Payment Bond for the **entire** base bid amount shall be required in connection with this contract.

1.23 FAMILIARITY WITH LAWS

The Bidder is assumed to be familiar with all applicable Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect the Work.

1.24 EXAMINATION OF BIDDER'S FACILITIES

The Town, as part of its evaluation may perform an examination of the Bidder's facilities. The Town Manager or designee, as part of the evaluation, may perform this examination.

The term facilities as used in this solicitation shall include, but shall not be limited to, all properties operated by the Bidder, all equipment used in the performance of business by the Bidder, and/or any other evidence, tangible or intangible, that the Town may deem necessary to

substantiate the technical and other qualifications, and the abilities of the Bidder to perform the Work.

The examination shall include, but shall not be limited to, appearance and cleanliness of facilities, appearance and cleanliness of equipment, "road worthiness" of vehicles, appearance and visibility of all signage on vehicles, and possession and distribution of mandatory equipment. Vehicles shall be examined for compliance with State of Florida Statutes, as well as applicable County and Town Ordinances. Additionally, examination may include verification of some of the (physical) minimum requirements for Bidders. Additionally, the Town reserves the right to perform such examinations on the successful Bidder as often as it deems necessary, to ensure proper performance of the proposed Agreement.

1.25 ALLOWANCES

Included in the contract sum is an allocation account for unforeseen conditions, potential construction changes and quantity adjustments, and additional work or materials that the Town may deem necessary if ordered and authorized by the Town in accordance with the Contract Documents.

1.26 CAMPAIGN FINANCE RESTRICTIONS ON VENDORS

Ordinance 06-11; Town Code Chapter 8A. Pursuant to Ordinance 06-11; Town Code Chapter 8A; Section 7.6 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor.

Vendors' Campaign Contribution Disclosure:

1. General requirements:

- A) Any vendor required to disclose campaign contributions pursuant to the Charter of the Town of Cutler Bay, as may be amended, shall file a written disclosure with the Town Clerk, stating all contributions made that were accepted by an elected official of the Town, the official to whom they were made and the date they were made. The Town Clerk may develop a form to be used by vendors for such disclosure.
- B) The disclosure shall be filed prior to and as a condition of the award of any Town contract to the Vendor.
- C) The Town Clerk shall inform the Council of any disclosures which were made in relation to any items before the Council prior to the hearing on the item or prior to the award of the contract.
- D) If an existing vendor makes a contribution the vendor must report the same to the clerk within ten days of its acceptance or prior to being awarded any additional contract or renewal, whichever occurs first.
- E) The Town Clerk shall file a quarterly report with the Council, which lists all the vendor disclosures in the quarter.

2. Disqualification:

- A) As per Section 7.6 of the Town Charter, if a Vendor of products or services who directly or through a member of the person's immediate family or through a political action

committee or through any other person makes a campaign contribution to a Town candidate and fails to disclose it then he/she/it shall be barred from selling any product or service to the town for a period of two years following the swearing in of the subject elected official.

1.27 CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of Town "Cone of Silence" are applicable to this transaction. The entirety of these provisions can be found in the Town's Purchasing Ordinance, Town Ordinance 06-22. The "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid, between:

1. A potential vendor, service provider, proposer, bidder, lobbyist, or consultant; and
2. The Town Council, Town's professional staff including, but not limited to, the Town Manager and his or her staff, any member of the Town's selection or evaluation committee.

The Cone of Silence shall be imposed upon each RFQ, RFP and bid after the advertisement of said RFQ, RFP, or bid. The Cone of Silence shall terminate at the beginning of the Town Council meeting at which time the Town Manager makes his or her written recommendation to the Town Council. However, if the Town Council refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Manager makes a subsequent written recommendation.

The Cone of Silence shall not apply to:

- a. Oral communications at pre-bid conferences;
- b. Oral presentations before selection or evaluation committees;
- c. Public presentations made to the Town Council during any duly noticed public meeting;
- d. Communication in writing at any time with any Town employee, unless specifically prohibited by the applicable RFQ, RFP or bid documents. The bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
- e. Communications regarding a particular RFQ, RFP or bid between a potential vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process for such RFQ, RFP or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- f. Communications with the Town Attorney and his or her staff;
- g. Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation;
- h. Any emergency procurement of goods or services pursuant to Town Code;
- i. Responses to the Town's request for clarification or additional information;
- j. Contract negotiations during any duly noticed public meeting;
- k. Communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential

vendor, service provider, proposer, bidder, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Please contact the Town Attorney for any questions concerning Cone of Silence compliance. Violation of the Cone of Silence by a particular bidder or proposer shall render any RFQ award, RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager.

1.28 LOBBYIST REGISTRATION

Proposers must also comply with all Town Charter sections and Code provisions that pertain to lobbyists, including Section 7.6 of the Town Charter and implementing ordinance(s), including Sec. 2-11(s) of the Town Code and Ordinance 07-02. Please contact the Town Clerk at (305) 234-4262 for additional information.

1.29 PROTEST PROCEDURES

With respect to a protest of the terms, conditions, and specifications contained in a solicitation (RFP, RFQ, or Bid), including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in accordance with Town Ordinance 06-22.

1.30 PUBLIC RECORDS LAW

Contractor acknowledges that the public shall have access, at all reasonable times, to certain documents and information pertaining to Town contracts, pursuant to the provisions of Chapter 119, Florida Statutes. Contractor agrees to maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement and to provide the public with access to public records in accordance with the record maintenance, production and cost requirements set forth in Chapter 119, Florida Statutes, or as otherwise required by law. Contractor shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of Town. In the event of termination of this Agreement by either party, any reports, photographs, surveys and other data and documents and public records prepared by, or in the possession or control of, Contractor, whether finished or unfinished, shall become the property of Town and shall be delivered by Contractor to the Town Manager, at no cost to the Town, within seven (7) days of termination of this Agreement. All such records stored electronically by Contractor shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Upon termination of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure. Any compensation due to Contractor shall be withheld until all documents are received as provided herein. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.

SECTION 3

CONTRACT BETWEEN OWNER AND CONTRACTOR

THIS CONTRACT is dated as of the ____ day of _____ in the year 2015 (which shall be the Effective Date of the Contract) by and between the Town of Cutler Bay (hereinafter called "OWNER" or "TOWN") and _____ (hereinafter called "CONTRACTOR").

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

Article 1. WORK. CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Provide labor and equipment required to construct drainage improvements on SW 212th Street located in the Town of Cutler Bay. Work shall include but not be limited to the installation of manholes, pipes, exfiltration trench, outfall, stabilized subgrade, limerock, asphalt, striping, manholes and utility cover adjustments, and site restoration. Utilization of these services will require close coordination with the Town and Engineer.

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

TOWN OF CUTLER BAY
SW 212 STREET DRAINAGE IMPROVEMENTS
("THE PROJECT")

Article 2. ENGINEER. The Project's construction, engineering and inspection services will be provided by the following:

CEI:
To be determined

Who is hereinafter called "ENGINEER" and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1 If awarded, the work will be substantially completed within sixty (60) calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within seventy-five (75) calendar days after the date when the Contract Time commences to run. The Town will allow extended daily working hours and work on weekends with advance notice.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Contract and that OWNER will suffer financial loss and other damages if the Work is not substantially or finally complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially or finally complete on time. CONTRACTOR acknowledges and agrees that the actual delay damages which OWNER will suffer in the event of delay in achieving Substantial Completion or Final Completion of the Work are difficult, if not impossible, to determine and that the liquidated damages described herein are a fair and reasonable estimate of the delay damages which the OWNER is expected to suffer in the event of such delay. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER One Thousand and 00/100 dollars (\$1,000.00) for each day that expires after the time specified in Paragraph 3.1 for Substantial Completion until the Work is substantially complete. Liquidated damages shall be deducted from the CONTRACTOR's Applications for Payment. However, if at the time of the CONTRACTOR's Final Application for Payment, CONTRACTOR is owed insufficient amounts to fully cover the deduction for liquidated damages, then CONTRACTOR shall pay any amount due within ten (10) days of written demand by OWNER.

Article 4. CONTRACT PRICE.

4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents and the Schedule of Values provided for payment request purposes in current funds as follows:

Contract Price _____
Contract Price (in words) _____

4.2 Included in the Agreement Sum is an allowance account of seventy-five thousand dollars (**\$75,000**) for the Base Bid Form for unforeseen conditions, potential construction changes and quantity adjustments, and additional work or materials that the Town may deem necessary if ordered and authorized by the Town Manager in accordance with the Contract Documents. Money may only be taken from this account at the prior approval of the Engineer and pursuant to any procedures outlined by the Town Manager.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1 PROGRESS PAYMENTS. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or before the 28th day of each month during construction as provided below. The Application for Payment shall be in AIA format. All progress payments will be on the basis of the progress of the Work measured by the Schedule of Values provided in paragraph 14.01 of the General Conditions and the requirements of the Contract Documents.

5.1.1 Prior to Substantial Completion, progress payments will be in an amount equal to: ninety percent (90%) of the Work completed and ninety percent (90%) of materials and

equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.

5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to ninety-five percent (95%) of the Contract Price, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions.

5.2. FINAL PAYMENT. Upon Final Completion and acceptance of the Work in accordance with paragraph 14.07.B.1 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.B.1.

Article 6. INTEREST. Not Applicable

Article 7. CONTRACTOR'S REPRESENTATIONS.

7.1. In order to induce OWNER to enter into the Contract, CONTRACTOR makes the following representations:

CONTRACTOR has thoroughly and to its full satisfaction familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work. CONTRACTOR has: (a) examined the Contract Documents, Project Specifications and Drawings thoroughly to its full satisfaction and has undertaken the responsibility to determine, within the scope of CONTRACTOR's competence as a licensed General Contractor, that the Project Specifications and Drawings are fit and proper for the performance of the Work and to the best of CONTRACTOR's knowledge are: (i) free from material errors, omissions, and/or inconsistencies; and (ii) are in compliance with applicable laws, statutes, building codes, ordinances, rules and regulations, recognizing however, that CONTRACTOR is not responsible for the design of the Project; (b) visited the site to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work; (c) examined the Project Site to its full satisfaction, including any existing work or improvements in place, and has determined that the same are fit and proper to receive the Work in their present condition and CONTRACTOR waives all claims that same are not in accordance with all data and information with respect to the Project as specified in the Drawings and Project Specifications and/or as provided by OWNER and Engineer; (d) familiarized himself with federal, state and local laws, ordinances, rules, policies, and regulations that may in any manner affect cost, progress or performance of the Work; (e) studied and carefully correlated CONTRACTOR's observations with the Contract Documents; and (f) at CONTRACTOR's own expense, made or obtained any additional examinations, investigations, explorations, tests and studies, and obtained any additional information and data which pertain to the physical conditions (surface, sub-surface and underground facilities) at or contiguous to the Project or otherwise which may affect cost, progress, performance or furnishing of the Work and which CONTRACTOR deems necessary to determine its Contract Price for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

7.2. CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.

- 7.3. CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4. CONTRACTOR has correlated and considered the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents and in reaching the Contract Price and Contract Time.
- 7.5. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR. CONTRACTOR shall not rely on any conflicts, errors or discrepancies that CONTRACTOR knew or should have known exist in the Contract Documents as a basis for a claim for an extra to the Contract Price or Contract Time.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents that comprise the entire Contract between OWNER and CONTRACTOR are attached to this Contract, made a part hereof and consist of the items listed in the general conditions and the following:

- 8.1. This Contract
- 8.2. Invitation to Bid
- 8.3. Bid Form
- 8.4. Standard General Conditions
- 8.5. Supplementary Conditions
- 8.6. Detailed Specifications as included in this package and as referenced
- 8.7. Code of Silence/Campaign Contribution Ordinance/Lobbyist Registration Requirements
- 8.8. Addendum Acknowledgement
- 8.9. Anti-Kickback Affidavit
- 8.10. Non-Collusive Affidavit
- 8.11. Sworn Statement
- 8.12. Qualification Statement
- 8.13. Performance Bond
- 8.14. Payment Bond
- 8.15. Notice of Intent to Award
- 8.16. Notice to Proceed
- 8.17. Drug-Free Work Place Form
- 8.18. Construction Plans titled – “SW 212 Street Drainage Improvements”
- 8.19. Any Modifications, including Work Authorizations, duly delivered after execution of the

Contract.

- 8.20. Local Agency Program (LAP) Attachments
- 8.21. SFWMD Notice General Permit No. 14384
- 8.22. SFWMD Application No. 13-1022-2 Package
- 8.23. Department of Army Approval Letter Dated November 25, 2014
- 8.24. Department of Army Approval Letter Dated February 12, 2015
- 8.25. Department of Regulatory and Economic Resources Permit No. CLII-20120041
- 8.26. L-31E Levee, Emergency Action Plan
- 8.27. L-31E Levee, Asbuilt Drawing
- 8.28. Project Geotechnical Report

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

Article 9. MISCELLANEOUS

- 9.1. Terms used in this Contract which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3. OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4. This Contract may be executed in counterparts.
- 9.5. The OWNER shall retain the ownership of all shop drawings and design drawings once payment therefore is made.
- 9.6. OWNER and CONTRACTOR hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action or proceeding based upon the contract documents or arising out of, under, or in connection with the work or the project.
- 9.7. The law of the State of Florida shall govern the contract between the Town of Cutler Bay and the successful bidder and any action shall be brought in Miami-Dade County, Florida. In the event of litigation to settle issues arising hereunder, the prevailing party in such litigation shall be entitled to recover against the other party its costs and expenses, including reasonable attorney fees, which shall include any fees and costs attributable to appellate proceedings arising on and of such litigation.

9.8 INDEMNIFICATION. The parties agree that 1% of the total compensation paid to the Contractor for the performance of this agreement shall represent the specific consideration for the Contractor's indemnification of the Town as set forth in this Section and in the Terms and Conditions.

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless the Town and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of attorneys and other professionals and court costs) arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) 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 there from and (b) is caused in whole or in part by any willful and wanton or negligent or gross negligent acts or omission of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

In any and all claims against the Town or any of their consultants, agents or employees by any employee of Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under the above paragraph 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 or other person or organization under workers or workman's compensation acts, disability benefit acts or other employee benefit acts.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Florida Statute 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.

The official title of the Town is "Town of Cutler Bay". This official title shall be used in all insurance, or other legal documentation. Town of Cutler Bay is to be included as "Additional Insured" with respect to liability arising out of operations performed for Town of Cutler Bay by or on behalf of Contractor or acts or omissions of Contractor in connection with such operation.

9.9 WARRANTIES OF CONTRACTOR. The CONTRACTOR hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws necessary to perform the Specified Services.

9.10 DEFAULT/FAILURE TO PERFORM. The Town shall be the sole judge of nonperformance, which shall include any failure on the part of the successful bidder to accept the award, to furnish required documents, and/or to fulfill any portion of this contract within the time stipulated.

Upon default by the successful bidder to meet any terms of this agreement, the Town will notify the bidder three (3) days (weekends and holidays excluded) to remedy the default. Failure on the contractor's part to correct the default within the required three (3) days shall result in the contract being terminated and upon the Town notifying in writing the contractor of its intentions and the effective date of the termination. The following shall constitute default:

- A) Failure to perform the work required under the contract and/or within the time required or failing to use the subcontractors, entities and personnel as identified and set forth, and to the degree specified in the contract.
- B) Failure to begin the work under this contract within the time specified.
- C) Failure to perform the work with sufficient workers and equipment or with sufficient materials to ensure timely completion.
- D) Neglecting or refusing to remove materials or perform new work where prior work has been rejected as non conforming with the terms of the contract.
- E) Becoming insolvent, being declared bankrupt, or committing act of bankruptcy or insolvency, or making an assignment renders the successful bidder incapable of performing the work in accordance with and as required by the contract.
- F) Failure to comply with any of the terms of the contract in any material respect.

In the event of litigation or arbitration arising from a default by the contractor, the contractor shall also be liable for all damages caused by its default which damages may include but not be limited to any and all costs incurred by the Town in completing the project, and damages arising out of the contractor's failure to adhere to the contract requirements and all attorney's fees and costs incurred by the Town in seeking legal relief for the default.

9.11 OTHER CAUSES FOR TERMINATION. The Town of Cutler Bay reserves the right to cancel this contract by written notice to the contractor effective the date specified in the notice should any of the following apply:

- A) The Town has determined that such cancellation will be in the best interest of the Town to cancel the contract for its own convenience. In the event the contract is terminated for the Town's convenience the contractor will be paid for all labor and materials provided as of the termination date. No consideration will be given for anticipated lost revenue, overhead, mobilization or demobilization or the canceled portions of the contract.
- B) Funds are not available to cover the cost of the services. The Town's obligation is contingent upon the availability of appropriate funds.

9.12 ANTI-DISCRIMINATION. The bidder certifies compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. Furthermore the bidder shall comply with all other State and local laws and policies that prohibit discrimination.

9.13 If any provision of this Contract or any Authorization under this Contract or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of the is Contract, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

9.14 Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified.

9.15 Contractor shall abide by the applicable provisions of Chapter 119, Florida Statutes (Public

Records).

IN WITNESS WHEREOF, the parties hereto have signed 6 copies of this Contract. At least one counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on OWNER'S behalf.

OWNER
Town of Cutler Bay

CONTRACTOR
Acosta Tractors, Inc.
11986 NW 97th Avenue
Hialeah Gardens, FL 33018

ADDRESS
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

ADDRESS
STREET
CITY, STATE & ZIP CODE

BY: _____

BY: _____

Rafael G. Casals
Town Manager

NAME
TITLE - COMPANY

WITNESS _____

WITNESS _____

[CORPORATE SEAL]

[CORPORATE SEAL]

[END OF SECTION]

SECTION 4

BIDDER’S REPRESENTATION

SW 212 STREET DRAINAGE IMPROVEMENTS

Proposal of Acosta Tractors, Inc.
(Name)

11986 NW 97th Avenue Hialeah Gardens, FL 33018
(Address)

to furnish all materials, equipment, and labor and to perform all work in accordance with the Contract Documents for:

SW 212 STREET DRAINAGE IMPROVEMENTS
(“THE PROJECT”)

TO: Town of Cutler Bay
Attn: Town Clerk
10720 Caribbean Blvd., Suite # 105
Cutler Bay, Florida 33189

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Bid, as principal or principals, is or are named herein and that no other person than herein mentioned has any interests in the Bid of the Agreement to which the Work pertains; that this Bid is made without connection or arrangement with any other person, company, or parties making Bids or Proposals and that the Bid is in all respects fair and made in good faith without collusion or fraud.

The Bidder further declares that he or she has examined the geographic location and sites of the Work; that he has made sufficient investigations to fully satisfy himself that such sites are suitable for this Work; and he assumes full responsibility therefore; that he has examined the specifications for the Work and from his own experience or from professional advice that the specifications are sufficient for the Work to be done and he has examined the other Contract Documents relating thereto, including the Instructions to Bidders, the Agreement, Bid, Detailed Scope of Work/Specifications, Qualification Statement, Public Entity Crime Form, and Insurance requirements and he has read all addenda prior to the opening of Bids, and that he has satisfied himself fully, relative to all matters and conditions with respect to the Work to which this Bid pertains.

The Bidder proposes and agrees, if this Bid is accepted, to timely execute the Agreement with the Town in the form attached and to furnish all necessary materials, all equipment, all necessary machinery, tools, apparatus, means of transportation, and labor necessary to complete the Work specified in the Bid and the Agreement, and called for by the specifications and in the manner specified and to timely submit all required bonds and insurance certificates.

NOTE: THIS SCHEDULE OF BID ITEMS IS MERELY ILLUSTRATIVE OF THE MINIMUM AMOUNT/QUANTITY OF WORK TO BE PERFORMED UNDER THE CONTRACT. IN THE CASE OF ANY CONFLICT BETWEEN THIS SCHEDULE OF BID ITEMS AND THE DETAILED SPECIFICATIONS, THE DETAILED SPECIFICATIONS WILL PREVAIL.

The Bidder further proposes and agrees to comply in all respects with the time limits for commencement and completion of the Work as stated in the Agreement.

The Bidder agrees to execute the Agreement and furnish the executed Agreement, all required bonds, insurance certificates, and other required information to Town within ten (10) ten calendar days after written notice of the Award of contract. Failure on the part of the Bidder to timely comply with this provision shall give Town all rights and remedies set forth in the Instructions to Bidders.

The undersigned agrees to accept as full compensation therefore the total of the lump sum prices and extended unit prices items named in the following schedule. It is understood that the unit prices quoted or established for a particular item are to be used for computing the amount to be paid to the Contractor, based on the Work actually performed as determined by the Agreement and the Town. However, in utilizing the schedule, the Bidder agrees that in no event shall compensation paid to the Bidder under the Agreement exceed the dollar amount of the Bidder's Bid amount, as set forth in the attached Bid.

It is intended that all Work to be performed under this Bid shall commence approximately thirty (30) days after Agreement execution.

In no event shall Town be obligated to pay for Work not performed or materials not furnished.

Bidder's Certificate of Competency No. E-184

Bidder's Occupational License No. CUC057441

WITNESS:

Calypso DeArmas

By: *F. Acosta*
Signature of Authorized Agent



[SEAL]

[SPACE LEFT INTENTIONALLY BLANK]

BID FORM

The following Bid Proposal is presented to assist the Town in evaluating the Bid. The Bid Amounts will include all items described in the Bid Documents (Detailed Specifications). Payment shall be made on the basis of Work actually performed and completed.

The Base Bid Amount includes all work on SW 212 Street Drainage Improvements:

BASE BID AMOUNT \$ 727,590.87

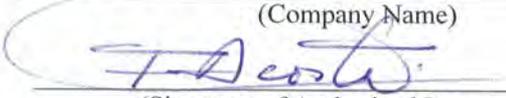
BASE BID AMOUNT (IN WORDS) Seven Hundred Twenty

Seven Thousand Five Hundred Ninety Dollars and Eighty Seven Cents.

Taxpayer Identification Number: 59-1454861

BIDDER: Acosta Tractors, Inc.

(Company Name)



(Signature of Authorized Representative)

Felix Acosta, President

(Printed Name and Title)

11986 NW 97th Ave. Hialeah Gardens, FL 33018

(Company Address)

305-556-0473

(Company Phone Number)

[SPACE LEFT INTENTIONALLY BLANK]

BASE BID FORM

The following Base Bid Form is presented to assist the Town in evaluating the Bid. This Bid Form reflects estimated quantities for the Base Bid roadway sections as described above. After award, the Town reserves the right to modify estimated quantities subject to the unit price, and eliminate line items if necessary. In the event of discrepancy or approved quantity change, the Unit Price for each item will govern. Payment shall be made for the items listed on the Bid Form on the basis of the Work actually performed and completed.

<u>Bid Item No.</u>	<u>DESCRIPTION</u>	<u>Estimated Quantity</u>	<u>UNIT</u>	<u>Unit Price</u>	<u>Value</u>
101-1	Mobilization	1	LS	60,000.00	60,000.00
102-1	Maintenance of Traffic	1	LS	20,000.00	20,000.00
104-10	Storm Water Pollution Prevention	1	LS	7,500.00	7,500.00
110-1	Clearing and grubbing	1	LS	35,000.00	35,000.00
327-1	Mill and dispose existing asphalt, 1-inch	13,000	SY	3.12	40,560.00
334-1	Furnish and place 1-inch (minimum) asphalt concrete pavement – FDOT SP 9.5 (fine mix)	13,000	SY	11.20	145,600.00
425-1	Furnish and install manholes (Type P-7)	6	EA	4,335.12	26,010.72
425-2	Furnish and install curb inlet (Type P-6)	6	EA	4,665.86	27,995.16
425-3	Furnish and install outfall pipe headwall	1	EA	2,115.62	2,115.62
425-4	Furnish and install canal gate structure (Type E)	1	EA	2,364.42	2,364.42
425-5	Furnish and install canal gate	1	EA	2,238.00	2,238.00
430-449	Furnish and install RCP (18" Pipe)	150	LF	50.00	7,500.00
430-98	Furnish and install polyethylene pipe (15" Pipe)	500	LF	52.76	26,380.00
430-99	Furnish and install polyethylene pipe (18" Pipe)	1,200	LF	23.55	28,260.00
443-70	Furnish and install exfiltration trench (18" Pipe)	700	LF	143.57	100,499.00
522-1	Concrete Valley Gutter	75	LF	32.25	2,418.75
522-2	Type-F Curb and Gutter	150	LF	34.87	5,230.50
522-3	Type-D Curb	75	LF	21.25	1,593.75
522-4	Concrete Sidewalk, 4" thick	150	SY	53.31	7,996.50
522-5	ADA Detectable Warning Pad	20	EA	300.00	6,000.00
654-2-21	Sign and Post w/ Rectangular Rapid Flashing Beacons, Solar Powered, Single Direction	2	EA	10,183.38	20,366.76
654-2-22	Sign and Post w/ Rectangular Rapid Flashing Beacons, Solar Powered, Back to Back	1	EA	10,992.56	10,992.56
660-1	Loop Assembly – Type F	4	AS	1,607.50	6,430.00
700-1	Single Sign & Post	8	EA	309.37	2,474.96
700-2	Sign Panel, Ground Mount	14	EA	630.80	8,831.20
700-3	Sign Panel, Overhead	2	EA	1,563.75	3,127.50
700-4	Remove Sign Panel & Post	3	EA	37.50	112.50
700-5	Remove Sign Panel	1	EA	37.50	37.50
711-1	Pavement Markings	1	LS	35,000.00	35,000.00
SR-1	Site Restoration	1	LS	19,955.47	19,955.47
A-1	Allowances	1	LS	\$75,000	\$75,000

BID AMOUNT\$ 727,590.87**BID AMOUNT (IN WORDS)**Seven Hundred Twenty Seven Thousand Five Hundred Ninety Dollars and Eighty Seven Cents.**Bid Item Notes:**

1. Bid Item 101-1 is a lump sum pay item for all mobilization costs and also includes the construction of two (2) project signs that shall be displayed at approaches to the project area. The intent is that the signs will be freestanding. The sign shall display on both sides the project name, Town Logo, elected officials, engineer, and contact information. A detail of the sign is included in the plans. Shop drawings must be submitted for approval prior to ordering the projects signs. Photos of the actual project signs must be submitted for approval prior to installation of the project signs.
2. Bid Item 102-1 is a lump sum pay item for a Maintenance of Traffic and includes all pedestrian access maintenance. All crosswalks and sidewalks shall remain open and free of obstructions. Temporary painting for roadways and crosswalks shall be maintained throughout the project. Costs shall include the use of flagmen as needed.
3. Bid Item 104-10 is a lump sum pay item to furnish, install, and maintain the complete storm water pollution prevention plan (SWPPP). Costs shall include but not be limited to all baled hay, filter fabric, turbidity barriers, Notice of Intent fees, and compliance with any SWPPP reporting.
4. Bid Item 110-1 is a lump sum pay item that includes the removal and disposal of all existing asphalt/concrete pavement, curbing, curb ramps, ADA detectable warning pads, and soil/planting as required for the project. This item shall include tree removal permits and permit costs as needed.
5. Bid Items 327-1 and 334-1 include all costs associated with milling and resurfacing the project area as shown on plan sheets upon completion of the entire trench/pavement restoration phase. These milling and resurfacing bid items include but are not limited to the cost associated with providing a smooth and continuous grade throughout the entire asphalt resurfacing process to avoid areas of standing water. Any existing valve box or manholes adjustments are to be included in these pay items as well. The asphalt costs associated with the trench/pavement restoration shall be included in Bid Items 430-449, 430-98, 430-99 and 443-70 where applicable.
6. Bid Items 425-1, 425-2, 425-3, and 425-4 includes all costs associated with installing inlets, manholes, and structures, baffles, outfall pipe headwall, and canal gate structure. These Bid Items shall include all associated excavation, removal of existing inlets, protection of trench, management of excavated material, backfill and compaction, grading, new fill, testing, and adjusting new manhole covers per the plans and details.
7. Bid Item 425-5 includes all costs associated with installing the canal gate with removable hand wheel.
8. Bid Item 430-449 includes all costs associated with the trench excavation, protection of trench, management of excavated material, RCP installation, trench backfill and compaction, new fill, testing, and installing first lift of asphalt per the plans, details, and as specified in section 02230. The final lift of Type FC 9.5 asphaltic concrete surface course will be paid under Bid Item 334-1. This bid item shall also include costs required to comply with the RCP outfall "Emergency Action Plan" in Appendix A.
9. Bid Items 430-98, 430-99 and 443-70 includes all costs associated with installing drainage pipe and exfiltration trench. These bid items shall include trench excavation, removal of existing RCP pipe, protection of trench, management of excavated material, trench backfill and compaction, new fill, testing, and installing first lift of asphalt per the plans and details. The final lift of Type SP 9.5 asphaltic concrete surface course will be paid under Bid Item 334-1.
10. Bid Item 522-1, 522-2, 522-3, 522-4, and 522-5 includes all costs associated with installing concrete Valley Gutter, Type-F Curb and Gutter, Type-D curb, concrete sidewalk, and ADA Detectable Warning Pads as shown on the plans. The costs include all associated excavation, management of excavated materials, stabilized base as needed, backfill and compaction, testing, and adjacent site restoration. These Bid Items are not to be used for curbing, valley gutter, or sidewalk impacted by adjacent roadway or drainage improvement work.
11. Bid Item 654-2-21 and 654-2-22 includes all costs associated with furnishing and installing rectangular rapid flashing beacons, solar powered, complete assemblies, single direction or back to back per FDOT

- specification section 654 and as shown on the plans. This bid item includes all cost and coordination as required to obtain and close associated permits through Miami-Dade County.
12. Bid Item 660-1 includes all costs associated with furnishing and installing traffic signal loops impacted by construction as shown on the plans. This bid item includes all cost and coordination as required to obtain and close associated permits through Miami-Dade County.
 13. Bid Item 700-1 and 700-2 includes all work and materials necessary for the installation of new traffic signage, including but not limited to signs, posts, removing of existing signs, fastening mechanisms, excavation, backfilling and appurtenances.
 14. Bid Item 700-3 includes all work, equipment and materials necessary for the installation of new traffic signage on overhead mast arm, including but not limited to signs, removing of and disposal of existing signs, fastening mechanisms, and appurtenances.
 15. Bid Item 700-4 and 700-5 includes all work, equipment and materials necessary for the removal of existing sign post and panel assemblies, including but not limited to hauling, disposal of debris, and leveling of terrain.
 16. Bid Item 711-1 includes all costs associated with installing all thermoplastic pavement markings as shown on the plans including temporary pavement markings prior to thermoplastic. Costs associated with protecting and replacing existing signs damaged as a result of construction will be the responsibility of the contractor.
 17. Bid Item SR-1 is a lump sum pay item that includes restoration of the project area impacted by construction activities and adjacent to the drainage improvement work. Costs include restoration of the project area to its original condition or better. All damage to the project areas on items such as existing structures, pavement, driveways, curbs and gutters, sidewalks, shrubbery, grass, trees, utility poles, conduits, rocked, graveled or stabilized areas, and including all obstructions not specifically named herein, shall be repaired or replaced as part of this pay item. The pay item includes but is not limited to new sod, landscaping, trees, excavation, new fill, grading, irrigation, fences, sidewalks, curbs, etc. The contractor shall include the costs associated with a preconstruction video to confirm existing conditions. Any damage not confirmed by preconstruction video will be repaired at no additional cost to the Town.

TRENCH SAFETY

Bidder acknowledges that included in the various items of the Bid and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Fla.) effective October 1, 1990. The Bidder identifies the costs included in the Total Bid Price to be summarized below.

<u>TRENCH SAFETY MEASURE (DESCRIPTION)</u>	<u>UNITS OF MEASURE (LF, SY)</u>	<u>UNIT (QUANTITY)</u>	<u>UNIT COST</u>	<u>EXTENDED COST</u>
A. <u>Trench Box</u>	<u>LS</u>	<u>1</u>	<u>\$1,500</u>	<u>\$1,500.00</u>
B. _____	_____	_____	_____	_____
C. _____	_____	_____	_____	_____

Failure to complete the above shall result in the Bid being declared non-responsive.

SECTION 5

STANDARD
GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General



Contractors of America

Construction Specifications Institute



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1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the 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. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

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*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR 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 Substantial Completion; and (ii) 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.A 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. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *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.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *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 in connection with the Work.

24. *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.

25. *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.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *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.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon

timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *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.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *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.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *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.

36. *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.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *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.

39. *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.

40. *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.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *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.

43. *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.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *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 any Subcontractor.

46. *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.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed 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.

49. *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.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 Terminology

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or 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 action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed 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 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 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or 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).

D. 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.

E. Unless stated otherwise in the Contract Documents, words or phrases which 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

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 Copies of Documents

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the 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

A. CONTRACTOR's Review of Contract Documents: 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 may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, 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 knew or reasonably should have known thereof.

B. Preliminary Schedules: Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its 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 Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; 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.

C. *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.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by 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.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten 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.B. CONTRACTOR shall have an additional ten 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 any specified Milestones and 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 Shop Drawing and Sample 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*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for 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 may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended 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, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees 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.

provisions of the Contract Documents would result in violation of such Law or Regulation).

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. 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 any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. 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; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

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 in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) 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: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 Reuse of Documents

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not 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 ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of 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 adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

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:

ARTICLE 4 - AVAILABILITY OF LANDS;
SUBSURFACE AND PHYSICAL CONDITIONS;
REFERENCE POINTS

4.01 Availability of Lands

a. the provisions of any standard, specification, manual, code, or instruction (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

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, 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 of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and
2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general 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, ENGINEER, or any of ENGINEER's Consultants 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*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site 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 9.08 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 in respect of 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 within the time and 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, OWNER, ENGINEER, and ENGINEER's Consultants 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.

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; 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 of 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

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:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general 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, ENGINEER or any of ENGINEER's Consultants 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); 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.

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 to CONTRACTOR written notice: (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, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other 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.E 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, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other 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.F 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 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

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 CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, 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 current 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 must be accompanied by a certified copy of such agent's authority to act.

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 within 20 days thereafter substitute 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 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. OWNER shall deliver to CONTRACTOR, with copies to each additional insured 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.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase and maintain such liability and other 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: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) 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 so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, 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, partners, employees, agents, and other 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 completed operations insurance;
4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;
5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty 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);
6. 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
7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and 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, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, 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, 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 additional insured to whom a certificate of insurance has been issued.

B. OWNER shall purchase and maintain such boiler and machinery 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, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with 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 additional insured 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 paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. 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, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other 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 additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other 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, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other 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, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other 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 peril 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, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other 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 insureds, 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 or Written Amendment.

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 2.05.C. 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*

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, but 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. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work 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, and CONTRACTOR will not permit overtime work or the performance of Work on 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*

A. Unless otherwise specified in the General Requirements, 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 warranties and guarantees specifically called for 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. 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 (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the 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: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, 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 that 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 procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first 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 shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR’s achievement of Substantial Completion on time, whether or not 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 work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also 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, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and 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 procedure for review by ENGINEER will be similar to that provided in subparagraph 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 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 either a Change Order for a substitute or 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 time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such 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.

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 or Written Amendment signed. 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.

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 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 shall it 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 an additional insured 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, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other 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. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants 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. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.09 Laws and Regulations

A. CONTRACTOR shall give all notices and 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 primary 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 may 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, ENGINEER,

ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants 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.

C. Cleaning: Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site 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.

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, Written Amendments, 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

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the

safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify 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. 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 ENGINEER's Consultant, 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). 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

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The 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.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, 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.

D. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. CONTRACTOR shall also have 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.

2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. ENGINEER's Review

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample 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 of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.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 approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *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*

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*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. 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.

B. 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 acceptance by OWNER or any failure to do so;
6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's

Consultants, and the officers, directors, partners, employees, agents, and other 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:

1. 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; and

2. is caused in whole or in part 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, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees 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 Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them 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.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let 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 and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, 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 their work and will only cut or alter their 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.

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 Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly 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 in respect of 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 in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Insurance*

A. OWNER's responsibilities, if any, in 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 in 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. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

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 and will not be changed without written consent of OWNER and ENGINEER.

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 9.10, and 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 responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. 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 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. 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, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *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 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, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

A. ENGINEER will have authority to disapprove or 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.

9.07 *Shop Drawings, Change Orders and Payments*

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

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

9.08 *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.

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

A. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, 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. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 *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 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement 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 Written Amendment, 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).

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.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) 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 notice 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) is required by the provisions of any Bond to be given to a surety, 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 and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter 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. Notice of the amount or extent of the Claim, dispute, or other matter 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, dispute, or other matter). 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 Time 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).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal

of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH 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 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 include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

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 at the Site. 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, 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, expressage, and similar petty cash items in connection with the Work.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, 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, 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 and 11.01.B.

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 *Cash 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 as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the 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.

B. 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

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. 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 9.08.

B. 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.

C. 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 any other item of Work; and

3. if 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

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. 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 paragraph 12.01.C.2.a 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*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) 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 (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) 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.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to 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.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

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. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, 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, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site 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.

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 said paragraph 13.04.B; 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, it must, if requested by ENGINEER, be uncovered 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. If it is found that such 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. If, however, such 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 Milestones), 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.

13.06 *Correction or Removal of Defective Work*

A. 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).

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 Laws or Regulations or 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: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) 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. If CONTRACTOR does not promptly comply with the terms of such 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, and 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.

B. 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 or by Written Amendment.

C. 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.

D. 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 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 and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and 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 (or Milestones) 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

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*

A. *Applications for Payments*

1. At least 20 days before the date established 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 pro-gress 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 on the Site 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, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to 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: (i) 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 (ii) that 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 to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions

and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or 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 referred to 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 Written Amendment or 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. Ten days 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.

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 must 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 corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined 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.

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. Promptly thereafter, 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. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and 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. 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.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of 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, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete,

CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. 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. 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.

2. No 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: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) 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 or OWNER's property might in any way be responsible 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. *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 will become due and, when due, 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 and recommendation of ENGINEER, and without terminating the Agreement, 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 writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *OWNER May Suspend Work*

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not

more than 90 consecutive days by 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 allowed 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 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 the surety, if any) seven days written notice, terminate the services of CONTRACTOR, 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), 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 finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. 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.

C. 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.

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, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for 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. for 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. for 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. for 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, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for

Payment within 30 days after it is submitted, or 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. 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. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

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 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 if 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*

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, and 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 Agreement.

17.05 *Controlling Law*

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

SECTION 6

SUPPLEMENTARY CONDITIONS

1.01 GENERAL:

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect. If there is a conflict between the Contract, General Conditions (No. 1910-8, 1996 edit.) and these Supplementary Conditions, the terms of the Supplementary Conditions shall control.

The Contractor shall note physically by cross out or cross reference notations all changes in the General Conditions called for in the Supplementary Conditions before submitting his Bid.

ARTICLE 1 - DEFINITIONS - Page 6

SC-1.01.A

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) have the meanings assigned to them in the General Conditions, unless otherwise indicated.

Amend paragraph SC-1.01.A.28 by replacing the terminology Notice of Award with Notice of Intent to Award.

Amend paragraph SC-1.01.A.29 by replacing it with the following paragraph:

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 a particular specified portion of the Work under the Contract Documents. It is anticipated that multiple Notices to Proceed will be issued by OWNER on an as-needed basis. OWNER is not limited in the number of separate Notices to Proceed it may issue other than by the total Contract Time and total Contract Price. Each portion of the Work shall be separately described in an applicable Notice to Proceed which shall govern that portion of the required Work and indicate substantial completion and final completion requirements. Failure to comply with such dates will be subject to liquidated damages.

Amend paragraph SC-1.01.A.42 by replacing it with the following paragraph:

SUBCONTRACTOR – An individual or entity having a direct contract with CONTRACTOR. Sub-Subcontractor is an individual or entity having a direct contract with any Subcontractor for the performance of a part of Work at the Project.

Amend paragraph SC-1.01.A.30 by replacing it with the following paragraph:

OWNER – The individual, entity, public body, Town Manager, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

Add SC-1.01.A.51 as the following paragraph:

PROMPTLY – The period of time not exceeding five business days.

ARTICLE 2 - PRELIMINARY MATTERS - Page 9

SC-2.03

Amend paragraph 2.03.A by replacing it with the following paragraph:

The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if one or more Notices to Proceed are given, on the day indicated in a particular Notice to Proceed. Multiple Notices to Proceed may be given at any time during the term of this Agreement. Each Notice to Proceed shall govern Contract Times for that portion of the Work covered in the applicable Notice to Proceed.

**ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS;
REFERENCE POINTS - Page 13**

SC-4.04

Amend paragraph 4.04.B.2 by replacing the last sentence with the following:

If OWNER or 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, a Claim may be made as provided in paragraph 10.05.

ARTICLE 5 - BONDS AND INSURANCE - Page 15

SC-5.01

Amend paragraph 5.01.C by adding the following language at the end of the paragraph:
Any additional costs shall be borne by the Contractor.

SC-5.04

Add the new paragraphs immediately after paragraph 5.04 of the General Conditions.

The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

5.04.A.1 and 5.04.A.2 Workers' Compensation, etc. under paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions:

1. Comprehensive General Liability:
 - (a) Coverage to include Premise/Operations, Broad Form Property Damage, Contractual and Personal Injury, and XCU (where applicable).
2. Limits:
 - (a) General Aggregate \$1,000,000
 - (b) Each Occurrence \$1,000,000
 - (c) Personal Injury \$1,000,000
3. Coverage is to be written on an "occurrence" basis.
4. Owners and Contractors Protection:
 - (a) Bodily Injury:

Annual Aggregate \$1,000,000
Each Occurrence \$1,000,000

(b) Property Damage:
Annual Aggregate \$1,000,000
Each Occurrence \$1,000,000

5. Worker's Compensation shall be in accordance with the provisions of the laws of the State of Florida.

5.04.A.6 Comprehensive Automobile Liability:
(a) Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed.
(b) Limits:
Combined Single Limit \$1,000,000

5.04.B.1 Umbrella:
(a) Limits:
Aggregate \$1,000,000
(b) Cover all claims arising out of the contractor's operations or premises, anyone directly or indirectly employed by the Contractor or Subcontractor, and the Contractor's obligations under indemnification under this Contract.

5.04.B.8 The Town of Cutler Bay, shall be included as a named insured party under the Contractors Liability Insurance. The following paragraph is required to appear unaltered on the Certificate of Insurance.

"The Town of Cutler Bay, Florida is hereby named Additional Insured under the terms of this policy."

5.04.B.9 A thirty (30) day Notice of Cancellation is required and must be stated on the Certificate of Insurance.

5.04.B10 The Certificate of Insurance shall be issued to the Town of Cutler Bay, Florida at the following address:

**Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189**

5.06 Delete this section in its entirety.

5.07 Delete this section in its entirety.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES - INDEMNIFICATION - Page 18

SC-6.01

Add the new paragraphs immediately after paragraph 6.01.B of the General Conditions.

The Contractor shall perform all work in compliance with all applicable safety codes. A competent English speaking superintendent will be on the job at all times during working hours,

and will be subject to call during off-duty hours for emergency situations. The superintendent shall have overall charge of the work with complete authority regarding the Contractor's workmen, equipment and material purchases. The superintendent shall have complete authority to act on behalf of the Contractor. This person must be sufficiently qualified and have read and understood the Drawings, Specifications and all Contract Documents.

SC-6.02

Modify paragraph 6.02.B to allow work on Saturday per the following new paragraph added immediately after paragraph 6.02.B of the General Conditions.

The Project sites being located in a single-family residential area, there shall be no undue noise created, whether by workers arriving at the sites or by actual construction work, before 8:30 a.m. or after 6:00 p.m. Monday through Saturday. No work shall be performed on Sunday or legal holidays as defined by the Town. There are no public sanitary facilities nearby the work sites, and the Contractor must therefore make arrangements for portable sanitary facilities as authorized by the Town.

SC-6.06

Amend paragraph 6.06.A by replacing the last sentence of the paragraph with the following sentence:

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, except as required by 6.06.B and the Instruction to Bidders.

Amend paragraph 6.06.B by adding the words "Instructions to Bidders" before Supplementary Conditions where ever it appears.

Amend paragraph 6.06.B by deleting the following sentence from the paragraph:

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 or Written Amendment signed.

Amend paragraph 6.06.B by adding the following language at the end of the last sentence of the paragraph:

nor does such acceptance create a contractual relationship between the OWNER and any subcontractor, supplier, individual or entity.

SC-6.09

Amend paragraph 6.09.C by replacing the first sentence of the paragraph with the following sentence:

Changes in Laws or Regulations which become effective after the time of opening of Bids (or, on the Effective Date of the Contract if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times.

Add the new paragraphs immediately after paragraph 6.09.C. of the General Conditions:

All vehicles used in connection with the Contractor's operations will be required to have identification signs.

SC-6.11

Amend paragraph 6.11.A.2 by adding the following language at the end of the last sentence:

, as set forth on the Resident Complaint Resolution Protocol attached hereto and made a part of the Contract Documents.

Add the new paragraphs immediately after paragraph 6.11.B. of the General Conditions:

Adjacent residents must have access to their driveways at all times. All barricades and warning signs for any traffic lane closures will be provided and maintained by the Contractor. Cost of all barricades and signs shall be the responsibility of the Contractor.

Any off-duty officers as may be required in the maintenance of traffic shall be provided by the Contractor at the Contractor's expense.

SC-6.12

Amend paragraph 6.12.A by replacing the first sentence of the paragraph with the following sentence:

CONTRACTOR shall maintain in a safe place at the Project one record copy of all Drawings, Project Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders, As Builts, and written interpretations and clarifications in good order and annotated to show changes made during construction.

SC-6.13

Amend paragraph 6.13.A.3 by replacing it with the following paragraph:

other property at the Project or adjacent thereto, including, but not limited, to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in course of construction.

SC-6.20

Amend the paragraphs 6.20.A.1 and 6.20.A.2 by replacing them with the following paragraph.

To the fullest extent permitted by Laws and Regulations, the Parties agree that in consideration of the first \$1,000.00 dollars to be paid by Owner to Contractor hereunder and other specific consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor shall indemnify, defend and hold harmless the OWNER and ENGINEER and their consultants, agents, officers and employees, and the elected officials of the Owner, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professional and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim,

damage, loss or expense (a) 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 and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is implied by Law and Regulations regardless of the negligence of any such party.

Amend paragraphs 6.20.B by replacing it with the following paragraph:

In any and all claims against OWNER and ENGINEER and their consultants, agents, officers and employees, and the elected officials of the Owner by any CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20 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 or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 - OWNER'S RESPONSIBILITIES - Page 26

SC-8.02

Amend paragraph 8.02.A by replacing it with the following paragraph:

In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer whose status under the Contract Documents shall be that of the former ENGINEER.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION - Page 27

SC-9.03

Amend paragraph 9.03.A by adding the following language at the end of the paragraph:

The ENGINEER will provide a Resident Project Representative for this Project with duties, responsibilities and limitations of authority as outlined in Exhibit "B" attached at the end of these Supplementary Conditions. The Resident Project Representative will not be a full time Representative, but will work such periods of time so as to cover the project in accordance with Exhibit "B".

SC-9.05

Amend paragraph 9.05.A by deleting the following sentence from the end of the paragraph:

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, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

SC-9.08

Amend paragraph 9.08.A by replacing the word “decision” in the second sentence with the word “recommendation” and adding the words “recommendation will be submitted to the Town Manager whose” into the third sentence between the words “written” and “decision”.
SC-9.09

Amend paragraph 9.09.B by replacing the word “decision” with “recommendation” in the second paragraph and deleting the words “OWNER or” from the last sentence.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS - Page 29

SC-10.01

Amend paragraph 10.01.A by replacing the first sentence of the paragraph with the following sentence:

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 Written Amendment, a Change Order, a Work Change Directive, or a Field Directive.

Amend paragraph 10.05.D by adding the following sentence at the end of the paragraph:

Adherence to the terms of paragraph 10.05 is a condition precedent to bringing any further action in litigation.

SC-10.05

Amend paragraph 10.05.B by replacing it with the following paragraph:

B. TOWN MANAGER’S Decision: ENGINEER will render a formal recommendation to the TOWN MANAGER for a binding decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. TOWN MANAGERS decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR:

Delete paragraphs 10.05.B.1 and 10.05.B.2.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCE; UNIT PRICE WORK - Page 30

SC-11.01

Amend paragraph 11.01.A.1 by deleting the word Saturday from the last sentence of the paragraph.

Delete paragraph 11.01.A.4 in its entirety.

SC-11.03.C

Amend paragraph 11.03.C by replacing it with the following paragraph:

C. A Claim may be made for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

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

SC-12.01.C

Amend paragraph 12.01.C.2.a. by replacing the entire sentence with the following sentence:

for costs incurred under paragraph 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 10 percent;

SC-12.01.C

Modify paragraph 12.01.C.2.c. to change the fee as follows in the first sentence:

Will be paid a fee of 10 percent of the costs incurred by such Subcontractor under paragraph 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;

SC-12.06.B

Amend paragraph 12.06.B by replacing the entire paragraph with the following paragraph:

Contractor will not be entitled to any adjustment in the Contract Price for delays extended general conditions, extended overhead, loss of productivity, acceleration or any damages or other compensation whatsoever in the event of any delays in the progress of the Work on account of hindrances or delays from any cause whatsoever. Such causes of delay include but are not limited to differing site conditions, difficulty in acquiring building permits, limited access to the Project, failure to approve plans and shop drawings on time, delays caused by governmental action, inaction or regulation, subsurface conditions, material shortages or delay in delivery of materials. It is the specific intent hereunder that an extension of time will be the sole and exclusive remedy for delay of any type, description of category. However, if occasioned by an act of God, or by any act or omission on the part of the OWNER such act, hindrance or delay may entitle the CONTRACTOR to an extension of time in which to complete the Work which shall be determined by the ENGINEER, provided that the CONTRACTOR will give notice as provided herein. The foregoing limitations on adjustments to Contract Price also apply to any causes of delay which affect any subcontractor, material man, supplier or laborer on the Project. In no event, if any such events of delay occur, shall any subcontractor, material man, supplier or laborer be entitled to additional compensation for delays including claims for extended general conditions, extended overhead and the like against the OWNER or Engineer.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK - Page 34

SC-13.04

Amend paragraph 13.04.A by replacing it with the following paragraph:

If any Work is covered contrary to the Technical Specifications, Drawings or Contract Documents, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

Amend paragraph 13.04.B by adding the following language at the end of the second sentence:

,or direct payment if remaining Contract funds are not sufficient.

SC-13.09

Amend paragraph 13.09.C by adding the following language at the end of the first sentence:

, or direct payment if remaining Contract funds are not sufficient.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION - Page 36

SC-14.02.A.2

Amend paragraph 14.02.A.2 by deleting the existing paragraph and replacing it with the following paragraph:

With each Application for Payment, the CONTRACTOR shall include a Partial Waiver Upon Progress Payment or Statutory Waiver and Final Release, as appropriate from each and every materialman, supplier and or laborer (“Potential Lienor”) who has provided labor, services or materials for the Project. Contractor shall submit its own Statutory Waiver and Partial Release of Lien or Statutory Waiver and Final Release of Lien, as appropriate, with each Application for Payment. Moreover, CONTRACTOR shall ensure that no construction liens, or any encumbrances in the nature thereof or any other encumbrances whatsoever (including equitable lien claims), shall be filed or maintained by the CONTRACTOR or by any Potential Lienor in connection with any Work for which OWNER has made payment or for which payment is not yet due. As a condition precedent to the receipt of each progress payment from the OWNER, CONTRACTOR must furnish the Partial Waiver Upon Progress Payment Statutory Waiver and Final Release from each Potential Lienor, in the form prescribed by OWNER and/or ENGINEER, together with a Contractor’s Affidavit and Partial Release, in the form prescribed by the OWNER and/or ENGINEER. Further, as a condition precedent to the receipt of the final payment, the CONTRACTOR shall provide OWNER with a Statutory Waiver and Final Release from each Potential Lienor in the form prescribed by OWNER and/or the ENGINEER, together with a Contractor’s Affidavit and Final Release. Each Release given to the OWNER shall waive and release any lien rights of the Potential Lienor to the extent payment is made with respect to any Work performed through the date of the Release. For any Potential Lienor who has served a Notice to Owner and/or Notice to Contractor, but who has not provided labor, services or materials during the period of time covered by an Application for Payment, the CONTRACTOR shall provide a Zero Dollar Release in the form prescribed by OWNER and/or ENGINEER. CONTRACTOR shall comply with all requirements of Florida Statutes, Chapter 713. CONTRACTOR agrees to indemnify, defend and hold the OWNER harmless from and against any and all liens or other claims whatsoever filed against the OWNER or the OWNER’S property by any Potential Lienor for worked performed or materials or services furnished in connection with the Work for which CONTRACTOR has been paid or for which payment is not yet due at the time the Lien is recorded. In the event a Claim of Lien is recorded against the OWNER’S property, the CONTRACTOR shall cause the same to be satisfied within ten (10) days following the date of recordation of the Claim of Lien, or in the alternative, shall cause the Claim of Lien to be transferred to a Bond. In the event any Liens are not cleared of record within ten (10) days of recordation, OWNER shall have the right to settle, satisfy, or transfer such Lien to a Bond at CONTRACTOR’S sole cost and expense and OWNER may offset any such cost against the next payment due to CONTRACTOR, or CONTRACTOR shall make a direct payment if remaining Contract funds are not sufficient. OWNER shall not be limited to and is entitled to all other

remedies available at law or in equity. The provisions of this paragraph shall be deemed an independent covenant of the CONTRACTOR and shall be effective with respect to all Work performed and materials and services furnished under the Contract Documents, Change Orders or any other agreement for work with respect to the Project.

SC-14.02.D.1.b

Amend paragraph 14.02.D.1.b by deleting the existing paragraph and replacing it with the following:

Liens have been recorded in connection with the Work or the Project.

SC-14.07

Amend paragraph 14.07.A.1 by replacing it with the following paragraph:

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 operation instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in paragraph 6.12), final releases, final affidavits, Asbuilts, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

Amend paragraph 14.07.A.2 by adding the following language at the end of the first sentence:

or claims made against the Bonds provided by CONTRACTOR under the Contract Documents.

Delete paragraph 14.07.A.3 in its entirety.

SC-14.09

Amend paragraph 14.09.A.1 by replacing it with the following paragraph:

a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens or Claims against the Bonds, 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

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION - Page 40

SC-15.03

Delete paragraph 15.03.A.3 in its entirety.

Delete paragraph 15.03.A.4 in its entirety.

SC-15.04

Amend paragraph 15.04.A. by deleting the last sentence of the paragraph.

EXHIBIT "B"**A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS
OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE**

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the Work of the Contractor.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control or supervisory control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. Conferences and Meetings: Attend meetings with CONTRACTOR, such as pre-construction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operation affect OWNER's on-site operations.
 - b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
4. Shop Drawings and Samples:
 - a. Record date of receipt of Shop Drawings and samples.
 - b. Receive samples that are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.

- c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if ENGINEER has not approved the submittal.
5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. Interpretation of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
7. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
 - c. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

9. Reports:

- a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
- b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
- d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.

10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values. Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. Completion:

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of ENGINEER, OWNER and CONTRACTOR and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER

[SPACE LEFT INTENTIONALLY BLANK]

[END OF SECTION]



ADDENDUM NO. 1

**ITB #15-01
TOWN OF CUTLER BAY
SW 212 STREET DRAINAGE IMPROVEMENTS**

Addendum #1 form shall be part of the original ITB #15-01: SW 212 Street Drainage Improvements document and modifies the original ITB pages as noted below:

REVISION TO ORIGINAL ITB DOCUMENTS BELOW:
“RED”

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1.11 AWARD OF CONTRACT-

1.11.1 The Award of the Contract will be to the lowest Responsive and Responsible Bidder, whose qualifications indicate the Award will be in the best interest of the Town and whose Bid complies with the requirements of these specifications. In no case will the Award be made until all necessary investigations have been made into the responsibility of the Bidder(s) and the Town Manager is satisfied that the Bidder is qualified to do the Work and have the necessary organization, capital and equipment to carry out the Work in the specified timeframes. In evaluating responsibility, the Town may also consider previous contracts with the Town, past performance and experience with other contracts, compatibility of the project team with Town personnel, and any other criteria deemed relevant by the Town. The prime contractor must be FDOT prequalified at the time of bid opening.

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1.13 EXECUTION OF CONTRACT

The successful Bidder(s) shall, within ten (10) days of receipt of a written notice of the Award of the Agreement, deliver to the Town a fully executed Agreement and all requested certificates of insurance and bonds.

1.13.1 FORFEITURE OF BID GUARANTY FOR FAILURE TO EXECUTE CONTRACT

The failure of the successful Bidder(s) to execute an Agreement and submit required insurance certificates and bonds as specified in subsection 1.13 ~~from “Standard General Conditions of the Construction Contract”~~ will result in forfeit of the Award. Each Bidder agrees in advance that the Town will sustain certain damages too difficult to accurately ascertain. Accordingly, if the Award is forfeited under this Section, the

Page 9 of 148

1.21 INSURANCE

The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in Article 5-Bond and Insurance of Section 6 Supplemental Conditions. The Bidder shall include with his or her Bid either Certificates of Insurance evidencing same or documentation from his or her insurer evidencing the insurability of the Bidder to meet the insurance requirements.

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Bid Item Notes:

1. Bid Item 101-1 is a lump sum pay item for all mobilization costs and also includes the construction of two (2) project signs that shall be displayed at approaches to the project area. The intent is that the signs will be freestanding. The sign shall display on both sides the project name, Town Logo, elected officials, engineer, and contact information. A detail of the sign is included in the plans. Shop drawings must be submitted for approval prior to ordering the projects signs. Photos of the actual project signs must be submitted for approval prior to installation of the project signs.
2. Bid Item 102-1 is a lump sum pay item for ~~a~~all Maintenance of Traffic devices necessary for detours throughout duration of project and includes all pedestrian access maintenance. All crosswalks and sidewalks shall remain open and free of obstructions. Temporary painting for roadways and crosswalks shall be maintained throughout the project. Costs shall include the use of flagmen as needed. Cost shall include the cost of two (2) portable electronic message boards throughout the duration of project.

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ATTACHMENT L

~~Florida Department of Transportation Local Agency Program Requirements~~

~~PREVAILING MINIMUM WAGE (DAVIS BACON)~~

~~For this Contract, payment of predetermined minimum wages applies.~~

~~The Department of Labor Wage Rates applicable to this Contract are listed in Wage Rate Decision Number(s) FL140221 (attached) as modified up through ten days prior to the opening of bids.~~

~~Obtain the applicable General Decision(s) (Wage Tables) through the Department's web site and ensure that employees receive the minimum wages applicable. Review the General Decisions for all classifications necessary to complete the project. Request additional classifications through the Engineer's office when needed.~~

~~When multiple wage tables are assigned to a Contract, general guidance of their use and examples of construction applicability is available on the Department's web site. Contact the Department's Wage Rate Coordinator before bidding if there are still questions concerning the applicability of multiple wage tables. The URL for obtaining the Wage Rate Decisions is www.dot.state.fl.us/construction/wage.htm.~~

~~Contact the Department's Wage Rate Coordinator at (850) 414-4492 if the Department's web site cannot be accessed or there are questions.~~

ITB #15-01

SW 212 STREET DRAINAGE IMPROVEMENTS

Addendum #1

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56.			
57.	LABORER: Flagger	\$ 12.53	0.00
58.			
59.	LABORER: Grade Checker	\$ 12.41	0.00
60.			
61.	LABORER: Landscape &		
62.	Irrigation	\$ 9.02	0.00
63.			
64.	LABORER: Mason Tender		
65.	Cement/Concrete	\$ 13.91	3.50
66.			
67.	LABORER: Pipelayer	\$ 15.02	0.00
68.			
69.	LABORER: Laborer Cones/		
70.	Barriades/Barrels		
71.	Setter/Mover/Sweeper	\$ 11.11	0.00
72.			
73.	OPERATOR:		
74.	Backhoe/Excavator/Trackhoe	\$ 16.24	0.00
75.			
76.	OPERATOR: Bobcat/Skid		
77.	Steer/Skid Loader	\$ 12.88	0.00
78.			
79.	OPERATOR: Boom	\$ 18.95	0.00
80.			
81.	OPERATOR: Boring Machine	\$ 15.29	0.00
82.			
83.	OPERATOR: Broom/Sweeper	\$ 13.01	0.00
84.			
85.	OPERATOR: Bulldozer	\$ 16.77	0.00
86.			
87.	OPERATOR: Concrete Finishing		
88.	Machine	\$ 15.44	0.00
89.			
90.	OPERATOR: Concrete Saw	\$ 14.43	0.00
91.			
92.	OPERATOR: Crane	\$ 22.46	0.00
93.			
94.	OPERATOR: Curb Machine	\$ 20.74	0.00
95.			
96.	OPERATOR: Distributor	\$ 13.29	0.00
97.			
98.	OPERATOR: Drill	\$ 14.78	0.00
99.			
100.	OPERATOR: Forklift	\$ 16.32	0.00
101.			
102.	OPERATOR: Gradall	\$ 14.71	0.00
103.			
104.	OPERATOR: Grader/Blade	\$ 20.22	3.85
105.			
106.	OPERATOR: Loader	\$ 15.53	0.00
107.			
108.	OPERATOR: Mechanic	\$ 18.03	0.00
109.			
110.	OPERATOR: Milling Machine	\$ 14.67	0.00
111.			

112.	OPERATOR: Oiler.....	\$ 16.32	0.00
113.			
114.	OPERATOR: Paver (Asphalt,		
115.	Aggregate, and Concrete).....	\$ 13.61	0.00
116.			
117.	OPERATOR: Piledriver.....	\$ 17.23	0.00
118.			
119.	OPERATOR: Post Driver		
120.	(Guardrail/Fences).....	\$ 14.45	0.00
121.			
122.	OPERATOR: Roller.....	\$ 13.67	0.00
123.			
124.	OPERATOR: Scraper.....	\$ 12.01	0.00
125.			
126.	OPERATOR: Screed.....	\$ 14.15	0.00
127.			
128.	OPERATOR: Tractor.....	\$ 12.19	0.00
129.			
130.	OPERATOR: Trencher.....	\$ 14.74	0.00
131.			
132.	PAINTER: Spray.....	\$ 16.52	0.00
133.			
134.	SIGN ERECTOR.....	\$ 12.96	0.00
135.			
136.	TRAFFIC CONTROL: Traffic		
137.	Control Specialist.....	\$ 12.66	0.00
138.			
139.	TRAFFIC SIGNALIZATION:		
140.	Traffic Signal Installation.....	\$ 19.07	0.00
141.			
142.	TRUCK DRIVER: Distributor		
143.	Truck.....	\$ 14.96	2.17
144.			
145.	TRUCK DRIVER: Dump Truck.....	\$ 12.19	0.00
146.			
147.	TRUCK DRIVER: Flatbed Truck.....	\$ 14.28	0.00
148.			
149.	TRUCK DRIVER: Lowboy Truck.....	\$ 15.07	0.00
150.			
151.	TRUCK DRIVER: Slurry Truck.....	\$ 11.96	0.00
152.			
153.	TRUCK DRIVER: Vactor Truck.....	\$ 14.21	0.00
154.			
155.	TRUCK DRIVER: Water Truck.....	\$ 13.17	1.60
156.	-----		
157.			
158.	WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		
159.			
160.	-----		
161.			
162.	Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).		
163.			

164.——

165.——

166.——

167.—— The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

168.——

169.—— Union Identifiers

170.——

171.—— An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

172.——

173.——

174.—— Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

175.——

176.——

177.—— 0000/9999: weighted union wage rates will be published annually each January.

178.——

179.——

180.—— Non Union Identifiers

181.——

182.—— Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates,

183.—— LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

184.——

185.—— Survey wage rates will remain in effect and will not change until a new survey is conducted.

186.——

187.——

188.——

189.——

190.—— WAGE DETERMINATION APPEALS PROCESS

191.——

192.—— 1.) Has there been an initial decision in the matter? This can be:

193.——

194. ~~* an existing published wage determination~~
195. ~~* a survey underlying a wage determination~~
196. ~~* a Wage and Hour Division letter setting forth a position on~~
197. ~~a wage determination matter~~
198. ~~* a conformance (additional classification and rate) ruling~~
199. ~~_____~~
200. ~~On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.~~
201. ~~_____~~
202. ~~With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:~~
203. ~~_____~~
204. ~~_____ Branch of Construction Wage Determinations~~
205. ~~_____ Wage and Hour Division~~
206. ~~_____ U.S. Department of Labor~~
207. ~~_____ 200 Constitution Avenue, N.W.~~
208. ~~_____ Washington, DC 20210~~
209. ~~_____~~
210. ~~2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:~~
211. ~~_____~~
212. ~~_____ Wage and Hour Administrator~~
213. ~~_____ U.S. Department of Labor~~
214. ~~_____ 200 Constitution Avenue, N.W.~~
215. ~~_____ Washington, DC 20210~~
216. ~~_____~~
217. ~~The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.~~
218. ~~_____~~
219. ~~3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:~~
220. ~~_____~~
221. ~~_____ Administrative Review Board~~
222. ~~_____ U.S. Department of Labor~~
223. ~~_____ 200 Constitution Avenue, N.W.~~
224. ~~_____ Washington, DC 20210~~
225. ~~_____~~
226. ~~4.) All decisions by the Administrative Review Board are final.~~
227. ~~_____~~
228. ~~=====~~
229. ~~_____~~
230. ~~_____ END OF GENERAL DECISION~~
231. ~~_____~~

END OF SECTION

[SPACE LEFT INTENTIONALLY BLANK]

NEW
ATTACHMENT L
(Updated 01/09/2015)

Florida Department of Transportation Local Agency Program Requirements

PREVAILING MINIMUM WAGE (DAVIS BACON)

For this Contract, payment of predetermined minimum wages applies.

The Department of Labor Wage Rates applicable to this Contract are listed in Wage Rate Decision Number(s) FL140221 (attached) as modified up through ten days prior to the opening of bids.

Obtain the applicable General Decision(s) (Wage Tables) through the Department’s web site and ensure that employees receive the minimum wages applicable. Review the General Decisions for all classifications necessary to complete the project. Request additional classifications through the Engineer’s office when needed.

When multiple wage tables are assigned to a Contract, general guidance of their use and examples of construction applicability is available on the Department’s web site. Contact the Department’s Wage Rate Coordinator before bidding if there are still questions concerning the applicability of multiple wage tables. The URL for obtaining the Wage Rate Decisions is www.dot.state.fl.us/construction/wage.htm.

Contact the Department’s Wage Rate Coordinator at (850) 414-4492 if the Department’s web site cannot be accessed or there are questions.

- 1. General Decision Number: FL150221 01/09/2015 FL221
- 2.
- 3. Superseded General Decision Number: FL20140221
- 4.
- 5. State: Florida
- 6.
- 7. Construction Type: Highway
- 8.
- 9. County: Miami-Dade County in Florida.
- 10.
- 11. HIGHWAY CONSTRUCTION PROJECTS
- 12.
- 13. Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject
- 14. to the Davis-Bacon Act for which the solicitation is issued on
- 15. or after January 1, 2015. If this contract is covered by the
- 16. EO, the contractor must pay all workers in any classification
- 17. listed on this wage determination at least \$10.10 (or the
- 18. applicable wage rate listed on this wage determination, if it
- 19. is higher) for all hours spent performing on the contract. The
- 20. EO minimum wage rate will be adjusted annually. Additional
- 21. information on contractor requirements and worker protections
- 22. under the EO is available at www.dol.gov/whd/govcontracts.
- 23.

24.			
25.			
26.	Modification Number	Publication Date	
27.	0	01/02/2015	
28.	1	01/09/2015	
29.			
30.	* ELEC0349-002 09/01/2014		
31.			
32.		Rates	Fringes
33.			
34.	ELECTRICIAN.....	\$ 30.11	10.06
35.	-----		
36.	SUFL2013-039 08/19/2013		
37.			
38.		Rates	Fringes
39.			
40.	CARPENTER.....	\$ 17.84	0.00
41.			
42.	CEMENT MASON/CONCRETE		
43.	FINISHER, Includes Form Work.....	\$ 15.49	0.00
44.			
45.	FENCE ERECTOR.....	\$ 12.82	0.00
46.			
47.	HIGHWAY/PARKING LOT STRIPING:		
48.	Operator (Striping Machine).....	\$ 15.07	0.00
49.			
50.	HIGHWAY/PARKING LOT STRIPING:		
51.	Painter.....	\$ 12.13	0.00
52.			
53.	HIGHWAY/PARKING LOT STRIPING:		
54.	Operator (Spray Nozzle).....	\$ 11.16	0.00
55.			
56.	INSTALLER - GUARDRAIL.....	\$ 13.43	0.00
57.			
58.	IRONWORKER, ORNAMENTAL.....	\$ 13.48	0.00
59.			
60.	IRONWORKER, REINFORCING.....	\$ 18.43	0.00
61.			
62.	IRONWORKER, STRUCTURAL.....	\$ 16.42	0.00
63.			
64.	LABORER (Traffic Control		
65.	Specialist incl. placing of		
66.	cones/barricades/barrels -		
67.	Setter, Mover, Sweeper).....	\$ 11.59	0.00
68.			
69.	LABORER: Asphalt, Includes		
70.	Raker, Shoveler, Spreader and		
71.	Distributor.....	\$ 12.31	0.00
72.			
73.	LABORER: Common or General.....	\$ 10.69	0.00
74.			
75.	LABORER: Flagger.....	\$ 12.53	0.00
76.			
77.	LABORER: Grade Checker.....	\$ 12.41	0.00
78.			
79.	LABORER: Landscape &		

80.	Irrigation.....	\$ 9.02	0.00
81.			
82.	LABORER: Mason Tender -		
83.	Cement/Concrete.....	\$ 13.91	3.50
84.			
85.	LABORER: Pipelayer.....	\$ 15.02	0.00
86.			
87.	OPERATOR:		
88.	Backhoe/Excavator/Trackhoe.....	\$ 16.24	0.00
89.			
90.	OPERATOR: Bobcat/Skid		
91.	Steer/Skid Loader.....	\$ 12.88	0.00
92.			
93.	OPERATOR: Boom.....	\$ 18.95	0.00
94.			
95.	OPERATOR: Boring Machine.....	\$ 15.29	0.00
96.			
97.	OPERATOR: Broom/Sweeper.....	\$ 13.01	0.00
98.			
99.	OPERATOR: Bulldozer.....	\$ 16.77	0.00
100.			
101.	OPERATOR: Concrete Finishing		
102.	Machine.....	\$ 15.44	0.00
103.			
104.	OPERATOR: Concrete Saw.....	\$ 14.43	0.00
105.			
106.	OPERATOR: Crane.....	\$ 22.46	0.00
107.			
108.	OPERATOR: Curb Machine.....	\$ 20.74	0.00
109.			
110.	OPERATOR: Distributor.....	\$ 13.29	0.00
111.			
112.	OPERATOR: Drill.....	\$ 14.78	0.00
113.			
114.	OPERATOR: Forklift.....	\$ 16.32	0.00
115.			
116.	OPERATOR: Gradall.....	\$ 14.71	0.00
117.			
118.	OPERATOR: Grader/Blade.....	\$ 20.22	3.85
119.			
120.	OPERATOR: Loader.....	\$ 15.53	0.00
121.			
122.	OPERATOR: Mechanic.....	\$ 18.03	0.00
123.			
124.	OPERATOR: Milling Machine.....	\$ 14.67	0.00
125.			
126.	OPERATOR: Oiler.....	\$ 16.32	0.00
127.			
128.	OPERATOR: Paver (Asphalt,		
129.	Aggregate, and Concrete).....	\$ 13.61	0.00
130.			
131.	OPERATOR: Piledriver.....	\$ 17.23	0.00
132.			
133.	OPERATOR: Post Driver		
134.	(Guardrail/Fences).....	\$ 14.45	0.00
135.			

136.	OPERATOR: Roller.....	\$ 13.67	0.00
137.			
138.	OPERATOR: Scraper.....	\$ 12.01	0.00
139.			
140.	OPERATOR: Screed.....	\$ 14.15	0.00
141.			
142.	OPERATOR: Tractor.....	\$ 12.19	0.00
143.			
144.	OPERATOR: Trencher.....	\$ 14.74	0.00
145.			
146.	PAINTER: Spray.....	\$ 16.52	0.00
147.			
148.	SIGN ERECTOR.....	\$ 12.96	0.00
149.			
150.	TRAFFIC SIGNALIZATION:		
151.	Traffic Signal Installation.....	\$ 19.07	0.00
152.			
153.	TRUCK DRIVER: Distributor		
154.	Truck.....	\$ 14.96	2.17
155.			
156.	TRUCK DRIVER: Dump Truck.....	\$ 12.19	0.00
157.			
158.	TRUCK DRIVER: Flatbed Truck.....	\$ 14.28	0.00
159.			
160.	TRUCK DRIVER: Lowboy Truck.....	\$ 15.07	0.00
161.			
162.	TRUCK DRIVER: Slurry Truck.....	\$ 11.96	0.00
163.			
164.	TRUCK DRIVER: Vactor Truck.....	\$ 14.21	0.00
165.			
166.	TRUCK DRIVER: Water Truck.....	\$ 13.17	1.60
167.	-----		
168.			
169.	WELDERS - Receive rate prescribed for craft performing		
170.	operation to which welding is incidental.		
171.			
172.	=====		
173.			
174.			
175.	Unlisted classifications needed for work not included within		
176.	the scope of the classifications listed may be added after		
177.	award only as provided in the labor standards contract clauses		
178.	(29CFR 5.5 (a) (1) (ii)).		
179.			
180.			
181.	-----		
182.			
183.			
184.	The body of each wage determination lists the classification		
185.	and wage rates that have been found to be prevailing for the		
186.	cited type(s) of construction in the area covered by the wage		
187.	determination. The classifications are listed in alphabetical		
188.	order of "identifiers" that indicate whether the particular		
189.	rate is a union rate (current union negotiated rate for local),		
190.	a survey rate (weighted average rate) or a union average rate		
191.	(weighted union average rate).		

192.
 193. Union Rate Identifiers
 194.
 195. A four letter classification abbreviation identifier enclosed
 196. in dotted lines beginning with characters other than "SU" or
 197. "UAVG" denotes that the union classification and rate were
 198. prevailing for that classification in the survey. Example:
 199. PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of
 200. the union which prevailed in the survey for this
 201. classification, which in this example would be Plumbers. 0198
 202. indicates the local union number or district council number
 203. where applicable, i.e., Plumbers Local 0198. The next number,
 204. 005 in the example, is an internal number used in processing
 205. the wage determination. 07/01/2014 is the effective date of the
 206. most current negotiated rate, which in this example is July 1,
 207. 2014.
 208.
 209. Union prevailing wage rates are updated to reflect all rate
 210. changes in the collective bargaining agreement (CBA) governing
 211. this classification and rate.
 212.
 213. Survey Rate Identifiers
 214.
 215. Classifications listed under the "SU" identifier indicate that
 216. no one rate prevailed for this classification in the survey and
 217. the published rate is derived by computing a weighted average
 218. rate based on all the rates reported in the survey for that
 219. classification. As this weighted average rate includes all
 220. rates reported in the survey, it may include both union and
 221. non-union rates. Example: SULA2012-007 5/13/2014. SU indicates
 222. the rates are survey rates based on a weighted average
 223. calculation of rates and are not majority rates. LA indicates
 224. the State of Louisiana. 2012 is the year of survey on which
 225. these classifications and rates are based. The next number, 007
 226. in the example, is an internal number used in producing the
 227. wage determination. 5/13/2014 indicates the survey completion
 228. date for the classifications and rates under that identifier.
 229.
 230. Survey wage rates are not updated and remain in effect until a
 231. new survey is conducted.
 232.
 233. Union Average Rate Identifiers
 234.
 235. Classification(s) listed under the UAVG identifier indicate
 236. that no single majority rate prevailed for those
 237. classifications; however, 100% of the data reported for the
 238. classifications was union data. EXAMPLE: UAVG-OH-0010
 239. 08/29/2014. UAVG indicates that the rate is a weighted union
 240. average rate. OH indicates the state. The next number, 0010 in
 241. the example, is an internal number used in producing the wage
 242. determination. 08/29/2014 indicates the survey completion date
 243. for the classifications and rates under that identifier.
 244.
 245. A UAVG rate will be updated once a year, usually in January of
 246. each year, to reflect a weighted average of the current
 247. negotiated/CBA rate of the union locals from which the rate is

248. based.

249.

250.

251.

252. -----

253.

WAGE DETERMINATION APPEALS PROCESS

254.

255.

256. 1.) Has there been an initial decision in the matter? This can
257. be:

258.

259. * an existing published wage determination

260. * a survey underlying a wage determination

261. * a Wage and Hour Division letter setting forth a position on
262. a wage determination matter

263. * a conformance (additional classification and rate) ruling

264.

265. On survey related matters, initial contact, including requests
266. for summaries of surveys, should be with the Wage and Hour
267. Regional Office for the area in which the survey was conducted
268. because those Regional Offices have responsibility for the
269. Davis-Bacon survey program. If the response from this initial
270. contact is not satisfactory, then the process described in 2.)
271. and 3.) should be followed.

272.

273. With regard to any other matter not yet ripe for the formal
274. process described here, initial contact should be with the
275. Branch of Construction Wage Determinations. Write to:

276.

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

277.

278.

279.

280.

281.

282.

283. 2.) If the answer to the question in 1.) is yes, then an
284. interested party (those affected by the action) can request
285. review and reconsideration from the Wage and Hour Administrator
286. (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

287.

288.

289.

290.

291.

292.

293. The request should be accompanied by a full statement of the
294. interested party's position and by any information (wage
295. payment data, project description, area practice material,
296. etc.) that the requestor considers relevant to the issue.

297.

298. 3.) If the decision of the Administrator is not favorable, an
299. interested party may appeal directly to the Administrative
300. Review Board (formerly the Wage Appeals Board). Write to:

301.

302.

303.

Administrative Review Board
U.S. Department of Labor

304. 200 Constitution Avenue, N.W.
305. Washington, DC 20210
306.
307. 4.) All decisions by the Administrative Review Board are final.
308.
309. =====
310.
311. END OF GENERAL DECISION
312.
313.

END OF SECTION

TOWN OF CUTLER BAY

SECTION 8

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA }
}
COUNTY OF MIAMI-DADE } SS:

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the Town of Cutler Bay, its elected officials, and Town of Cutler Bay or its design consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: [Signature]
Felix Acosta
Title: President

Sworn and subscribed before this

30th day of April, 2015

[Signature]
Notary Public, State of Florida
Ernesto Diaz
(Printed Name)



My commission expires: 06/26/2016

END OF SECTION

TOWN OF CUTLER BAY

SECTION 9

NON-COLLUSIVE AFFIDAVIT

State of Florida }
Miami- } SS:
County of Dade }

Felix Acosta being first duly sworn, deposes and says that:

- a) He/she is the Owner Acosta Tractors, Inc., the Bidder that has submitted the attached Proposal;
b) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
c) Such Proposal is genuine and is not collusive or a sham Proposal;
d) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices in the attached Proposal or of any other Bidder, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;

The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:
Witness
Witness

By: Felix Acosta
(Printed Name)
President
(Title)

TOWN OF CUTLER BAY

SECTION 9

NON-COLLUSIVE AFFIDAVIT (CONTINUED)

ACKNOWLEDGMENT

State of Florida)
Miami-) SS:
County of Dade)

BEFORE ME, the undersigned authority, personally appeared to me well known and known by me to be the person described herein and who executed the foregoing Affidavit and acknowledged to and before me that Felix Acosta executed said Affidavit for the purpose therein expressed.

WITNESS, my hand and official seal this 30th day of April, 2015.

My Commission Expires: 06/26/2016

Notary Public State of Florida at Large



END OF SECTION

TOWN OF CUTLER BAY

SECTION 10

SWORN STATEMENT ON PUBLIC ENTITY CRIMES
SECTION 287.133(3)(a), FLORIDA STATUTES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the Town of Cutler Bay

by Felix Acosta, President
[print individual's name and title]

for Acosta Tractors, Inc.
[print name of entity submitting sworn statement]

whose business address is

11986 NW 97th Avenue

Hialeah Gardens, FL 33018

and (if applicable) its Federal Employer Identification Number (FEIN) is 59-1454861

(If the entity has no FEIN, include the Social Security Number of the individual

signing this sworn statement: _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)9g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or the United States, including, but not limited to, any bid or contract for goods and services to be provided to any public entity or an agency or political subdivision of any other state or of the United States involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction or a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand than an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or

- b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.
6. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies.]**

 X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, not any affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

 This entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

 The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **[attach a copy of the final order]**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

[Handwritten Signature]

Signature of Entity Submitting Sworn Statement

Sworn to and subscribed before me this 30th day of April, 2015.

Personally known X

OR produced identification _____ Notary Public – State of Florida

My commission expires 06/26/2016
(type of identification)

[Handwritten Signature]

(Printed, typed or stamped name notary public)



END OF SECTION

TOWN OF CUTLER BAY

SECTION 11

SUPPLEMENT TO BID/TENDER FORM

THIS FORM MUST BE SUBMITTED WITH BID FOR BID TO BE DEEMED RESPONSIVE.

QUALIFICATION STATEMENT

The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

1. Please describe your company in detail.
Acosta Tractors, Inc. was established in 1973.
We provide complete site, roadway, and underground infrastructure development.
2. The address of the principal place of business is:
11986 NW 97th Avenue
Hialeah Gardens, FL 33018
3. Company telephone number: 305-556-0473
4. Number of employees: 47 employees
5. Number of employees assigned to this project: TBD
6. Company Identification numbers for the Internal Revenue Service:
59-1454861
7. Miami-Dade County and Town of Cutler Bay Occupational License Number, if applicable, and expiration date.
Please see attached licenses.
8. How many years has your organization been in business? 42 Years



CTQB
Construction Trades Qualifying Board
BUSINESS CERTIFICATE OF COMPETENCY

E184

ACOSTA TRACTORS INC

D.B.A.:

F. Acosta
ACOSTA FELIX

Is certified under the provisions of Chapter 10 of Miami-Dade County

VALID FOR CONTRACTING UNTIL 09/30/2015

QUALIFYING TRADE(S)

0003 PIPE LINE ENG

0007 PAVING ENGINEERING

Charles Danger P.E.
Secretary of the Board

Charles Danger



www.miamidade.gov/development





STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Attachment "E" (Page 109 of 137)

CONSTRUCTION INDUSTRY LICENSING BOARD
1940 NORTH MONROE STREET
TALLAHASSEE FL 32399-0783

(850) 487-1395

ACOSTA, FELIX FRANCISCO
ACOSTA TRACTORS INC
11986 NW 97TH AVENUE
HIALEAH GARDENS FL 33018

Congratulations! With this license you become one of the nearly one million Floridians licensed by the Department of Business and Professional Regulation. Our professionals and businesses range from architects to yacht brokers, from boxers to barbeque restaurants, and they keep Florida's economy strong.

Every day we work to improve the way we do business in order to serve you better. For information about our services, please log onto www.myfloridalicense.com. There you can find more information about our divisions and the regulations that impact you, subscribe to department newsletters and learn more about the Department's initiatives.

Our mission at the Department is: License Efficiently, Regulate Fairly. We constantly strive to serve you better so that you can serve your customers. Thank you for doing business in Florida, and congratulations on your new license!



RECEIVED
AUG 04 2014
BY: _____

DETACH HERE

RICK SCOTT, GOVERNOR

KEN LAWSON, SECRETARY

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

LICENSE NUMBER
CUC057441

The UNDERGROUND UTILITY & EXCAVATION CO
Named below IS CERTIFIED
Under the provisions of Chapter 489 FS.
Expiration date: AUG 31, 2016



ACOSTA, FELIX FRANCISCO
ACOSTA TRACTORS INC
11986 NW 97TH AVENUE
HIALEAH GARDENS 33018



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

Attachment "E" (Page 110 of 137)

LICENSE NUMBER

CGC1504883



The GENERAL CONTRACTOR
Named below IS CERTIFIED
Under the provisions of Chapter 489 FS.
Expiration date: AUG 31, 2016

ROS, ALEJANDRO E
ACOSTA TRACTORS INC
11986 NW 97TH AVENUE
HIALEAH GARDENS FL 33018



ISSUED: 07/14/2014

DISPLAY AS REQUIRED BY LAW

SEQ # L1407140000969

State of Florida

Department of State

I certify from the records of this office that ACOSTA TRACTORS INC is a corporation organized under the laws of the State of Florida, filed on April 25, 1973.

The document number of this corporation is 424214.

I further certify that said corporation has paid all fees due this office through December 31, 2015, that its most recent annual report/uniform business report was filed on April 21, 2015, and that its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Twenty-first day of April, 2015*



Ken DeJoy
Secretary of State

Tracking Number: CC0860945942

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

000672

Local Business Tax Receipt

Miami-Dade County, State of Florida
-THIS IS NOT A BILL - DO NOT PAY



1057389

BUSINESS NAME/LOCATION
ACOSTA TRACTORS INC
11986 NW 97 AVE
HIALEAH GARDENS FL 33018

RECEIPT NO.
RENEWAL
1057389

EXPIRES
SEPTEMBER 30, 2015

Must be displayed at place of business
Pursuant to County Code
Chapter 8A - Art. 9 & 10

OWNER
ACOSTA TRACTORS INC
Worker(s) 10

SEC. TYPE OF BUSINESS
196 SPECIALTY ENGINEERING CONTRACT
E184

**PAYMENT RECEIVED
BY TAX COLLECTOR**
\$45.00 09/10/2014
CHECK21-14-066427



This Local Business Tax Receipt only confirms payment of the Local Business Tax. The Receipt is not a license, permit, or a certification of the holder's qualifications, to do business. Holder must comply with any governmental or nongovernmental regulatory laws and requirements which apply to the business.

The RECEIPT NO. above must be displayed on all commercial vehicles - Miami-Dade Code Sec 8a-276.

For more information, visit www.miamidade.gov/taxcollector

Local Business Tax Receipt

Miami-Dade County, State of Florida

-THIS IS NOT A BILL - DO NOT PAY

6903802

BUSINESS NAME/LOCATION

ACOSTA TRACTORS INC
1086 NW 97 AVE
HIALEAH GARDENS FL 33018

RECEIPT NO.

RENEWAL
7179567

LBT

EXPIRES

SEPTEMBER 30, 2015

Must be displayed at place of business
Pursuant to County Code
Chapter 8A - Art. 9 & 10

OWNER

ACOSTA TRACTORS INC
Worker(s) 10

SEC. TYPE OF BUSINESS

196 GENERAL BUILDING CONTRACTOR
CGC1504883

**PAYMENT RECEIVED
BY TAX COLLECTOR**

\$45.00 08/26/2014
CHECK21-14-054840

This Local Business Tax Receipt only confirms payment of the Local Business Tax. The Receipt is not a license, permit, or a certification of the holder's qualifications, to do business. Holder must comply with any governmental or nongovernmental regulatory laws and requirements which apply to the business.

The RECEIPT NO. above must be displayed on all commercial vehicles - Miami-Dade Code Sec 8a-276.

For more information, visit www.miamidade.gov/taxcollector

Master Contractor's Receipt

Miami-Dade County, State of Florida

-THIS IS NOT A BILL - DO NOT PAY



1057389

BUSINESS NAME/LOCATION

ACOSTA TRACTORS INC
11986 NW 97 AVE
HIALEAH GARDENS FL 33018

RECEIPT NO.

NEW
7454057

EXPIRES
SEPTEMBER 30, 2015

Must be displayed at place of business
Pursuant to County Code
Chapter 8A - Art. 9 & 10

OWNER

ACOSTA TRACTORS INC
Category(s) 2

SEC. TYPE OF BUSINESS

MMC SPECIALTY ENGINEERING CONTRACTOR
E184

**PAYMENT RECEIVED
BY TAX COLLECTOR**

\$200.00 09/10/2014
CHECK21-14-066427

This Local Business Tax Receipt only confirms payment of the Local Business Tax. The Receipt is not a license, permit, or a certification of the holder's qualifications, to do business. Holder must comply with any governmental or nongovernmental regulatory laws and requirements which apply to the business.

The RECEIPT NO. above must be displayed on all commercial vehicles - Miami-Dade Code Sec 8a-276.

For more information, visit www.miamidade.gov/taxcollector



CURRENT CONTRACTS

ACOSTA TRACTORS' ROLE	PROJECT NAME, PROJECT LOCATION, OWNER'S/GENERAL CONTRACTOR & ARCHITECT	CONTACT NAME, TELEPHONE NUMBER, FAX NUMBER & E-MAIL	DESCRIPTION OF WORK	SPECIALTY CLASSES OF WORK	CONTRACT (OR SUBCONTRACT) AMOUNT	ACTUAL OR PROJECTED START DATE	ESTIMATED COMPLETION DATE	% COMPLETED TO DATE
PRIME CONTRACTOR	Project: Roadway Improvements along NW 87th Avenue	Contact Name: Frank Aria	1, 2, 3 & 4	1, 2, 3, 4, 5, 6 & 7	\$11,870,471.28	02/2013	04/2015	80%
	Location: NW 87th Avenue from 154th Street to NW 186th Street Miami, FL	Telephone: 305-375-2930						
	Owner: Miami Dade County, 111 NW 1st Street Miami, FL 33128	Fax: 305-375-2931						
	General Contractor: Acosta Tractors, Inc.	E-mail:						
PRIME CONTRACTOR	Project: Caribbean Blvd. Improvements	Contact Name: Ralph Casals	1, 2 & 3	1, 3, 4, 5, 6, & 7	\$7,239,879.79	09/2013	12/2015	79%
	Location: Caribbean Blvd. from Coral Sea Road to SW 87th Avenue Cutler Bay, FL	Telephone: 305-234-4262						
	Owner: Town of Cutler Bay, 10720 Caribbean Blvd Ste 105 Cutler Bay, FL 33189	Fax: 305-234-4251						
	General Contractor: Acosta Tractors, Inc.	E-mail: RCasals@cutlerbay-fl.gov						
PRIME CONTRACTOR	Project: Water and Sewer Line at New Dawn Church	Contact Name: Judy Rivero	4 & 5		\$34,488.55	10/2014	01/2015	99%
	Location: 17200 NW 87th Avenue Miami, FL 33015	Telephone: 305-566-5400						
	Owner: Iglesia Bautista Nuevo Amanecer	Fax:						
	General Contractor: Acosta Tractors, Inc.	E-mail:						
PRIME CONTRACTOR	Project: Reconstruction of NE 4th, 3rd, 2nd, & 1st Place	Contact Name: Jose Sanchez	1, 2, 3 & 4	1, 3, 4, 6 & 7	\$1,619,837.56	07/2014	03/2015	100%
	Location: NE 4th, 3rd, 2nd, & 1st Place & East 7th Avenue Hialeah, FL	Telephone: 305-687-2696						
	Owner: City of Hialeah, 501 Palm Ave Hialeah, FL 33010	Fax: 305-234-4251						
	General Contractor: Acosta Tractors, Inc.	E-mail: josanchez@hialeahfl.gov						
PRIME CONTRACTOR	Project: Ruben Artilles Apartments	Contact Name: Ruben Artilles	2, 3 & 5	6	\$98,948.77	08/2014	03/2015	60%
	Location: 1759 Palm Avenue Hialeah, FL	Telephone: 305-592-3130						
	Owner: Ruben Artilles, 8130 NW 74th Ave. Miami, FL 33166	Fax: 305-592-3130						
	General Contractor: Acosta Tractors, Inc.	E-mail:						
PRIME CONTRACTOR	Project: Cultural Park	Contact Name: Vicente Rodriguez	2 & 3	6 & 7	\$700,480.86	09/2014	02/2015	100%
	Location: West 76th Street & 17th Avenue Hialeah, FL	Telephone: 305-687-2620						
	Owner: City of Hialeah Construction and Maintenance Department	Fax:						
	General Contractor: Acosta Tractors, Inc.	E-mail: vrodriguez@hialeahfl.gov						
PRIME CONTRACTOR	Project: NW 97th Avenue Roadway	Contact Name: Jose Olivo	1, 2, 3, & 4	1, 3, 4, 6, & 7	\$1,229,749.19	04/2015	08/2014	1%
	Location: NW 97th Avenue from NW 70th Street to NW 74th Street	Telephone: 305-593-6740						
	Owner: City of Doral	Fax:						
	General Contractor: Acosta Tractors, Inc.	E-mail: jose.olivo@cityofdoral.com						
SUBCONTRACTOR	Project: NW 114th Avenue Park - Recreation Center Phase 1	Contact Name: Frank Robinson	1 & 3		\$1,766,314.00	04/2015	12/2015	8%
	Location: 11400 NW 82nd Street	Telephone: 786-510-4445						
	Owner: City of Doral	Fax: 727-585-2088						
	General Contractor: Biltmore Construction	E-mail: FRobinson@biltmoreconstruction.com						

LEGEND

Description of Work:	Specialty Classes of Work:
1) Grading (includes clearing and grubbing, excavation, and embankment)	1) Electrical Work
2) Drainage (includes all storm drains, pipe culverts, culverts, etc.)	2) Guardrail
3) Flexible Paving (includes limerock, shell base and other optional base courses, soil-cement base, mixed-in-place bituminous paving,	3) Grassing, Seeding, and Sodding
4) Hot Plant-Mix Bituminous (includes structural and surface courses)	4) Landscaping
5) Water	5) Traffic Signals
6) Sewer (includes gravity, force main, pump stations, etc.)	6) Pavement Markings
	7) Roadway Signing

The foregoing list of subcontractor(s) may not be amended after award of the contract without the prior written approval of the Contract Administrator, whose approval shall not be unreasonably withheld.

15. What equipment do you own that is available for the work?
Please see attached Equipment List

16. What equipment will you purchase for the proposed work?
None

17. What equipment will you rent for the proposed work?
None

18. State the name of your proposed project manager and give details of his or her qualifications and experience in managing similar work.
Frank Acosta
Please see attached Resume.

19. State the true, exact, correct and complete name of the partnership, corporation or trade name under which you do business and the address of the place of business. (If a corporation, state the name of the president and secretary. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name.)
 - 19.1 The correct name of the Bidder is:
Acosta Tractors, Inc.

 - 19.2 The business is a (Sole Proprietorship) (Partnership) (Corporation).
Corporation

 - 19.3 The names of the corporate officers, or partners, or individuals doing business under a trade name, are as follows: N/A

EQUIPMENT LIST

Label	No.	Make & Model	Year	Serial Number
CASE EQUIPMENT				
B1	1	Case 450B Bulldozer	1984	3075551
B2	2	Case 1150E Bulldozer	1994	JJG0218002
B3	3	Case 550G Bulldozer	1997	JJG0255204
B4	4	Case 1150G Bulldozer	1999	JJG0257403
L1	6	Case 621B Loader (Loader #1)	1992	JAK0027646
L2	7	Case 621B Loader (Loader #2)	1995	JEE0041299
L3	8	Case 621B Loader (Loader #3)	1996	JEE0050139
R3	9	Case 252 Roller	1992	JKC7513325
R4	10	Case 1102 Roller	1993	JKC8106322

Label	No.	Make & Model	Year	Serial Number
JOHN DEERE EQUIPMENT				
B6	11	John Deere 700J LGP Bulldozer	2007	T0700JX132293
B7	12	John Deere 700J LGP	2011	1T0700JXB0196419
BH1	13	John Deere 310SE Backhoe	1998	842814
BH2	14	John Deere 310SJ Wheel Loader Backhoe	2008	T0310SJ143560
BH3	15	John Deere 310JXT Wheel Loader Backhoe	2008	T0310JX157304
BH5	16	John Deere 310J Backhoe Loader	2011	1T0310JXHB0199650
G3	17	John Deere 570B Motor Grader	1994	545100
G4	18	John Deere 670CH Motor Grader	2003	DW670CH588106(S)
S2	19	John Deere 5105 Tractor w/Sweeper	2004	LV5105C512274

SS1	20	John Deere 318D Skid Steer Loader	2011	1T0318DLLBG205976
LM1	21	John Deere Z225 Lawn Mower	2009	
LM2	22	John Deere Z245 Lawn Mower	2010	MOZ425B084401

Label	No.	Make & Model	Year	Serial Number
KOMATSU EQUIPMENT				
E1	23	Komatsu PC200LC-5 Excavator	1994	A70827
E2	24	Komatsu PC300LC-6 Excavator	1996	A80408
E3	25	Komatsu PC228USLC-3 Excavator (Excavator #1)	2002	21464
E4	26	Komatsu PC228USLC-3 Excavator (Excavator #2)	2003	30498
E5	27	Komatsu PC308 USLC-3 Excavator	2005	20273
L5	28	Komatsu WA250-3 Loader (Loader #1)	2001	A71458
L6	29	Komatsu WA250-3 Loader (Loader #2)	2003	A73226
L7	30	Komatsu WA250-5L Loader (Loader #3)	2006	A74224
L8	31	Komatsu WA250-5L Loader (Loader #4)	2006	A74287
L9	32	Komatsu WA320-5L Loader	2006	A33152
L10	33	Komatsu WA320-6 Wheel Loader	2012	A35306

Label	No.	Make & Model	Year	Serial Number
INGERSOLL RAND EQUIPMENT				
R5	34	Ingersoll Rand DD-22 Roller (Roller #1)	1998	152995
R6	35	Ingersoll Rand SD-100DB Roller (Roller #1)	2000	159701
R7	36	Ingersoll Rand DD-22 Roller (Roller #2)	2000	162204
R8	37	Ingersoll Rand DD-22 Roller (Roller #3)	2000	162223
R9	38	Ingersoll Rand DD-24 Roller	2002	170778
R10	39	Ingersoll Rand SD-100D Roller (Roller #2)	2007	52963
R12	40	Ingersoll Rand SD-100D Roller (Roller #3)	2004	169133

Label	No.	Make & Model	Year	Serial Number
MISCELLANEOUS EQUIPMENT				
AC1	40	Sullair Portable Air Compressor Model 185DPQ-JD	2005	004148330
BH4	41	Caterpillar 420E 4x4 Backhoe Loader	2012	DJL 04052
CR1	42	Pegson 428 Trakpactor Crusher	2006	280208DD
E6	43	Kobelco SK480 Excavator	2006	YS06U0500
E7	44	Kobelco SK485LC Excavator	2009	YS07-U0752
FL1	45	Toyota 62-6FDU25 Fork Lift	2004	60384
G1	46	Huber M850A Grader (Grader #1)	1989	M341
G2	47	Huber M850 Maintainer (Grader #2)	1989	M102
GN1	48	Magnum MMG35 Generator	2005	058206
MM1	49	WIRTGEN W2000 Pavement Profiler	2005	6.20.15000310.0649
P1	50	Neal Paver Model DM5500	1994	0042-1078
P2	51	1550C Mauldin Paver	2006	201636
PC1	52	Wacker Vibratory Plate Compactor Model DPU504H	2008	1878470
R1	53	530A Hyster 9 Wheel Traffic Roller	1987	A091C4127N
R2	54	Hyster 5-8 Ton Roller	1987	23456H (RL581)
R11	55	Dynapac CS142N Vibratory Compactor	2009	21120279
S1	56	Massey Ferguson MF253-2 Sweeper	1997	F12488
TS1	58	300 Anders Hot Tack Sprayer	2007	H550570475TR
G5	59	Caterpillar Motor Grader	2014	R9N00167
SS3	60	Caterpillar Skid Steer Loader	2014	DZT00727
R13	61	Dynapac Model CS14N Static Smooth Drum Roller	2014	10000503L0A008372
B8	62	Caterpillar D3K2 Track Type Tractor Bulldozer	2015	KFF00390

FRANK P. ACOSTA

EXPERIENCE

Acosta Tractors, Inc. (1998 – Present)

Hialeah Gardens, FL

Engineering Contractors which provide complete site development and infrastructure improvements to both the public and private sector. The Company's primary work is providing complete services for the roadway/transportation improvements to both new and existing sites. Services include but is not limited to: Earthwork, Storm Drainage, Underground Utilities (Water & Sewer), Concrete Work, and Paving.

V.P./ Senior Project Manager (2009-Present)

Responsible for the management of the company's most complex projects. Duties include developing and monitoring project schedules, procuring project materials, processing/pulling permits, negotiating with and coordinating subcontractors, preparing and submitting shop drawings and other submittals, sending RFI's, communicating with owners or owners' agents, tracking job progress and generating project billings. Additional responsibilities include aiding in any function required to maintain the company's daily operations.

Notable Projects Include:

- Old Cutler Road Improvements from SW 97th Avenue to SW 87th Avenue, for the Town of Cutler Bay (CAACE Category I Project of the Year)
- People's Transportation Plan Roadway Improvements Along SW 157th Ave. From SW 136th to SW 120th Street, for Miami-Dade County Public Works Dept.
- People's Transportation Plan Roadway Improvements Along SW 62nd Avenue from SW 24th to NW 7th Street, for Miami-Dade County Public Works Dept.
- Water Main, Gravity Sewer, Force Main & Pump Station Along NW 138th from W 84th Ave. to NW 57th Ave., for City of Hialeah Dept. Water & Sewer

Field Supervisor (2006-2008)

Responsible for supervising approximately 5- 10 employees along with monitoring and coordinating field operations for my assigned job. Keeping constant communication with project managers and inspectors. Maintaining daily work logs to ensure that job safety, job quality and job schedule goals are met.

Notable Projects Include:

- Installation of 36-inch Force Main at S.W. 157th Avenue from the North Bank of Canal C-1W to Hammocks Boulevard, for Miami-Dade W&S
- Roadway Improvements to S.W. 42nd Street from S.W. 152nd Avenue to S.W. 147th Avenue, for Miami-Dade County Public Works Dept.
- Northwest 107th Avenue Roadway Improvements from N.W. 74th Street to N.W. 66th Street, JPA Miami-Dade County Public Works and City of Doral

Project Administrator/ Executive Assistant (1998-2006)

Duties included but were not limited to:

- Project Managing
- Estimating
- Field Work
- IT Support
- Accounts Receivables/ Payables

EDUCATION

2002 - 2006	Florida International University	Miami, FL
▪	B.S., Civil Engineering	
1998 - 2002	Mosignor Edward Pace High School	Miami, FL
▪	High School Diploma	

OTHER QUALIFICATIONS

State of Florida Engineer Intern No. 1100011941
CTQP Asphalt Paving Technician - Level 1
CTQP Asphalt Paving Technician - Level 2
CTQP QC Manager
10-Hour OSHA Construction Safety Training Course

REFERENCES

Alfredo Quintero Jr., EI, CFM, CGC, CCC Director of Public Works Town of Cutler Bay
Aquintero@cutlerbay-fl.gov – 305-234-4262

Nelson A. Cespedes, Water & Sewer Construction Supervisor I for Miami Dade Water & Sewer
NCESP@miamidade.gov – 305-610-0799

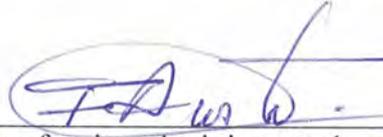
Celine de la Sierra, Vice-President of Sierra Construction Services
Cdsierrax@snappydsl.net – 305-557-2444

Cesar Castillo, Engineer Coordinator for City of Hialeah Water & Sewer
cecastillo@hialeahfl.gov – 305-556-3800

- 19.4. List all organizations which were predecessors to Bidder or in which the principals or officers of the Bidder were principals or officers. N/A
- 19.5. List and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Bidder, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition. N/A
- 19.6. List and describe all successful Bid, Performance or Payment Bond claims made to your surety(ies) during the last five (5) years. The list and descriptions should include claims against the bond of the Bidder and its predecessor organization(s). N/A
- 19.7. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Bidder or its predecessor organization(s) during the last five (5) years. The list shall include all case names; case, arbitration or hearing identification numbers; the name of the project over which the dispute arose; and a description of the subject matter of the dispute. N/A

NAME

RELATIONSHIPS



Signature of entity submitting supplement form

STATE OF FLORIDA)
)SS.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 30th day of April, 2015, by Felix Acosta who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this 30th day of April, 2015.



(NOTARY SEAL)



(Signature of person taking acknowledgment)

[SPACE LEFT INTENTIONALLY BLANK]

paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding the amounts set forth in the first paragraph hereof.

The term "balance of the Contract price" as used in this Bond, shall mean the total amount payable by Oblige to Principal under the Agreement and amendments thereto, less the amount paid by Oblige to Principal and less amounts withheld by Oblige pursuant to its rights under the Contract.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, or to the work to be performed thereunder and further agrees to all of the terms contained in the Agreement.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Oblige named herein or the heirs, successors, executors or administrators of the Oblige.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of _____, 2015.

Witness: _____

Witness: _____

Principal

Surety

By: _____

By: _____

Name: _____
(Print)

Name: _____
(Print)

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent for service of process on Surety is:

Name: _____

Address: _____

Phone: _____

END OF SECTION

WHEN THE PRINCIPAL IS AN **INDIVIDUAL**:

Signed, sealed and delivered in the presence of:

(Witness)

By: _____
(Individual Principal)

(Witness)

Business Address

WHEN THE PRINCIPAL OPERATES UNDER A **TRADE NAME**:

Signed, sealed and delivered in the presence of:

(Witness)

Business Name and Address

(Witness)

By: _____
Signature of Individual

WHEN A **PARTNERSHIP**:

Signed, sealed and delivered in the presence of:

(Witness)

Name and Address of Partnership

(Witness)

By: _____
(Partner)

WHEN THE PRINCIPAL IS A **CORPORATION**:

ATTEST:

(Corporate Seal)

(Corporate PRINCIPAL Name)

Business Address

Secretary

By: _____
President

ATTEST:

(Surety Seal)

(Corporate SURETY)

Business Address

By: _____
(Surety)

(Secretary)

Florida Resident Agent

ATTORNEY-IN-FACT

By: _____

Name _____
(Type)

NOTE 1: Surety shall provide evidence of signature authority, i.e., a certified copy of Power of Attorney.

NOTE 2: If both the Principal and Surety are Corporations, the respective Corporate Seals shall be affixed and attached

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Performance Bond on behalf of Surety.

The Performance Bond and the Statutory Payment Bond and the covered amounts of each are separate and distinct from each other.

END OF SECTION

TOWN OF CUTLER BAY

SECTION 14

NOTICE OF INTENT TO AWARD

TO: Acosta Tractors, Inc.
Contractor

11986 NW 97th Avenue Hialeah Gardens, FL 33018
Address

ATTN: Felix Acosta, President
Name and Title

PROJECT: SW 212 Street Drainage Improvements (the "Project") Town of Cutler Bay
Gentlemen:

This is to advise that the Town of Cutler Bay intends to award the Contract for the above referenced
Project as a result of your Bid of: _____(\$ _____) submitted to
the Town of Cutler Bay (Owner) on _____ (Date).

Four (4) sets of the Contract Documents for this Project are attached. Each set contains an unexecuted
Contract and the requirement for providing the Performance and Payment Bonds for the Project. Please
execute all copies of the Contract and attach a copy of the Performance and Payment Bonds to each
Contract and return to our office within ten (10) consecutive days for final execution by the Owner.

Your attention is invited to the provision whereby your Bid Security shall be forfeited in the event the
Contract with satisfactory Performance and Payment Bonds attached is not executed and delivered to the
Owner and all other requirements of the Instructions to Bidders met within ten (10) consecutive calendar
days from _____(Date).

Sincerely yours,

By: _____

Date: _____

TOWN OF CUTLER BAY

SECTION 15

NOTICE TO PROCEED

TO: Acosta Tractors, Inc.
Contractor

11986 NW 97th Avenue
Street Address

Hialeah Gardens, FL 33018
City, State, Zip

ATTN: Felix Acosta, President
Name and Title

PROJECT: SW 212 Street Drainage Improvements (the "Project")
Town of Cutler Bay

Gentlemen:

One executed copy of your Contract for the above Project has been forwarded to you through the Engineer. The Commencement date is _____, 2015. Completion date shall be _____, 2015.

Your attention is invited to the provision whereby you shall start to perform your obligations under the Contract Documents on the Commencement date. Said date shall begin the Contract Time.

The Engineer in charge of the Work for the Town of Cutler Bay will be:

Sincerely yours,

By: _____

Date: _____

TOWN OF CUTLER BAY

SECTION 16

DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Section 287.087, Florida Statutes, hereby certifies that Acosta Tractors, Inc. does: (Name of Business)

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

[Handwritten Signature]
Proposers Signature

April 30, 2015
Date

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Acosta Tractors, Inc.
11986 N.W. 97th Avenue
Hialeah Gardens, FL 33018

SURETY:

(Name, legal status and principal place of business)

Berkley Insurance Company
475 Steamboat Road
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

The Town of Cutler Bay
10721 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189

BOND AMOUNT: \$ 5%

Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

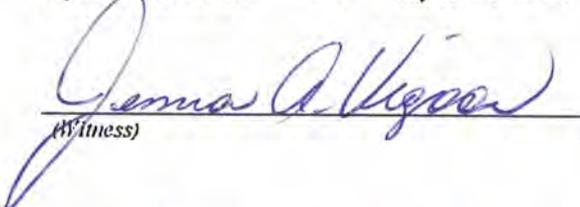
S.W. 212th Street Drainage Improvements ITB #15-01

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

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

Signed and sealed this 30th day of April, 2015

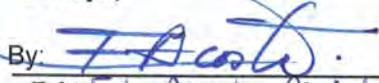


(Witness)

Acosta Tractors, Inc.

(Principal)

(Seal)

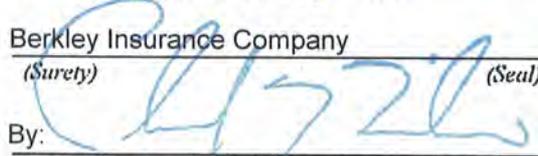
By: 

(Title) Felix Acosta, President

Berkley Insurance Company

(Surety)

(Seal)

By: 

(Title) Charles J. Nielson Attorney-in-Fact



POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Charles J. Nielson, Charles D. Nielson or Joseph P. Nielson of Nielson & Company, Inc. of Miami Lakes, FL* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed *Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00)*, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety Group, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 10 day of May, 2013.

Attest:

(Seal)

By

Ira S. Lederman
Senior Vice President & Secretary

Berkley Insurance Company

By

Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

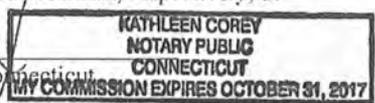
STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 10 day of May, 2013, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Senior Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

Kathleen Corey
Notary Public, State of Connecticut



CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 30th day of April, 2015.

(Seal)

Andrew M. Tuma

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation (on reverse) must be in blue ink.

CERTIFIED RESOLUTION

I, Jessica A. Vigoa, the duly elected Secretary of Acosta Tractors, Inc., a Corporation organized and existing under the laws of the State of Florida, do hereby certify that the following Resolution was unanimously adopted and passed by a quorum of the Board of Directors of the said Corporation at a meeting held in accordance with law and the by-laws of the said Corporation:

"IT IS HEREBY RESOLVED that Felix Acosta, the duly elected President of Acosta Tractors, Inc. be and is hereby authorized to execute the Contract, the Payment Bond and the Performance Bond in the name and on behalf of this Corporation for a certain project entitled:

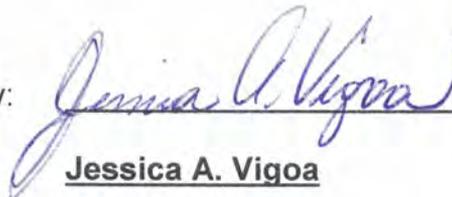
SW 212 STREET DRAINAGE IMPROVEMENTS ; ITB# 15-01

and such other instruments in writing as may be necessary on behalf of the said Corporation, and that the Contract, Payment and Performance Bond and other such instruments signed by him shall be binding upon the said Corporation as its own acts and deeds."

I further certify that the above Resolution is in force and effect and has not been revised, revoked, or rescinded.

Given under my hand and the Seal of the said Corporation this 30th day of April, 2015.

By:



Jessica A. Vigoa

Secretary





CERTIFICATE OF LIABILITY INSURANCE

Attachment "E" (Page 137 of 137)

DATE (MM/DD/YYYY) 4/28/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines Wells Fargo Insurance Services USA, Inc. 6100 Fairview Road Charlotte, NC 28210	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">CONTACT NAME:</td> </tr> <tr> <td>PHONE (A/C, No, Ext): 888-572-2412</td> <td>FAX (A/C, No):</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS: certs@trinet.com</td> </tr> <tr> <td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> </tr> <tr> <td>INSURER A: Indemnity Insurance Company of North America</td> <td style="text-align: right;">NAIC # 43575</td> </tr> <tr> <td colspan="2">INSURER B:</td> </tr> <tr> <td colspan="2">INSURER C:</td> </tr> <tr> <td colspan="2">INSURER D:</td> </tr> <tr> <td colspan="2">INSURER E:</td> </tr> <tr> <td colspan="2">INSURER F:</td> </tr> </table>	CONTACT NAME:		PHONE (A/C, No, Ext): 888-572-2412	FAX (A/C, No):	E-MAIL ADDRESS: certs@trinet.com		INSURER(S) AFFORDING COVERAGE		INSURER A: Indemnity Insurance Company of North America	NAIC # 43575	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
CONTACT NAME:																					
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INSURER B:																					
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED Strategic Outsourcing, Inc. P.O. Box 241448 Charlotte, NC 28224 RE Acosta Tractors, Inc.																					

COVERAGES **CERTIFICATE NUMBER:** 9052852 **REVISION NUMBER:** See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WLRC48560349	03/01/2015	03/01/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: SW 212 Street Drainage Improvements ITB # 15-01

Workers' Compensation Coverage is limited to employees leased to Acosta Tractors Inc. by Strategic Outsourcing, Inc.

CERTIFICATE HOLDER Town of Cutler Bay 10720 Caribbean Blvd., Ste 105 Cutler Bay, FL 33189	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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