

CONTRACT INFORMATION BOOK
FOR
WEST HAVEN INTER URBAN TRAIL
PROJECT
EN-162-02

NOBLESVILLE, INDIANA

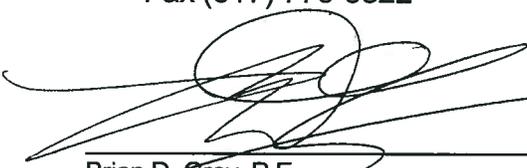


Prepared By:
City of Noblesville – Department of Engineering
16 South 10th Street, Ste 155
Noblesville, IN 46060
(317) 776-6330
Fax (317) 776-6322





Brian D. Gray, P.E.



Date

8-12-10

SET NO. _____

TABLE OF CONTENTS
SPECIFICATIONS AND CONTRACT DOCUMENTS
WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02
NOBLESVILLE, INDIANA

General Information

- Table of Contents
- Advertisement for Bids (AFB)
- Info For Bidders (IFB)

Bid Package

- Proposal (P)
- Itemized Proposal (IP)
- Bid Bond (BB)
- Wage Stipulation Affidavit
- Common Wage Scale
- Form 96
- List of Subcontractors/Suppliers
- List of Bidders Experience on Public Works Projects
- Non-Collusion Affidavit

Award Package

- Performance Bond (PFB)
- Payment Bond (PYB)
- Contract
- Acknowledgement
- Notice of Intent to Award
- Notice to Proceed

General Conditions

- General Conditions

Supplemental General Conditions

- Supplemental General Conditions

Special Provisions

- Special Provisions

Appendices

- Appendix A – Change Order Form
- Appendix B – Warranty Letter Form
- Appendix C – Waiver of Lien Form
- Appendix D – Pay Estimate Application Form
- Appendix E – Earthwork Quantity Calculations

Associated Documents

1. West Haven Inter Urban Trail Project
Construction Plans (11"x17")
2. Trail Planting Relocation Plan Sheet L101 Prepared by Kevin K. Parsons & Associates, Inc. last
revision date 01/29/2010. (11"x17")
(PDF versions of all documents available to Plan Holders upon request -Native format for plans 24"x36")

ADVERTISEMENT FOR BIDS
FOR
WEST HAVEN INTER URBAN TRAIL PROJECT
Contract No. EN-162-02
NOBLESVILLE, INDIANA

Sealed proposals will be received by the Board of Public Works and Safety, City of Noblesville, at the Office of the Clerk-Treasurer, 16 South 10th Street, Noblesville, Indiana, until 8:30 a.m. (local time) on **August 24, 2010**, and then will be publicly opened and read aloud at 9:00 a.m. on **August 24, 2010**. Any bid(s) received later than 8:30 a.m. (local time) on **August 24, 2010** will be returned unopened.

DESCRIPTION OF WORK: Base bid work for which proposals are to be received is for the construction of approximately 1300 linear feet of 8 foot wide pedestrian/bike trail to include grading and landscaping.

BID DOCUMENTS: Specifications and Contract Documents are available for examination on or after **August 10, 2010** in the following office:

- City of Noblesville – Department of Engineering, 16 South 10th Street, Suite 155, Noblesville, Indiana;

Copies of the Specifications and Contract Documents may be obtained on or after **August 10, 2010** at the City of Noblesville – Department of Engineering, Noblesville, Indiana, upon payment of \$25.00 per set. A set consists of single copies of Specifications and Contract Documents. This remittance is not refundable.

Bids shall be properly and completely executed on Bid Forms contained in the Contract Documents. Each Bid shall be accompanied by a completely filled out Form No. 96 (Revised 2005), acceptable bid security, and wage stipulation affidavit. Any Bid not accompanied by the aforementioned required items shall be deemed to be a non-responsive Bid.

No Bidder may withdraw the proposal within a period of 60 days following the date set for the receiving of bids. The City reserves the right to retain any and all bids for a period of not more than 60 days and said bid shall remain in full force and effect during said time. The City further reserves the right to waive informalities and to award the Contract to any Bidder all to the advantage of the City of Noblesville or to reject all bids.

BID SECURITY: Each bid shall be accompanied by an acceptable certified check made payable to the City of Noblesville or an acceptable bid bond in the amount equal to five percent of the total bid price executed by an incorporated surety company in good standing and qualified to do business in the State of Indiana and whose name appears of the current Treasury Department Circular 570.

BONDS: A Performance Bond and Payment Bond each in the amount of 100 percent of the Contract price will be required from the Contractor to whom the work is awarded.

QUALIFICATION OF BIDDERS: Bidder, or Sub-Contractor performing work, must provide 5 years of responsible experience with projects of similar type construction or construction management experience.

PRE BID MEETING: There will be a **mandatory** Pre-Bid Meeting on **August 17, 2010** at 9:00 AM (local time) in City Hall, 16 South 10th Street, Noblesville, Indiana.

INDIANA REQUIREMENTS: Standard Questionnaire Form 96 – Revised 2005, completely filled out and signed, including attachment of Contractor's Financial Statement.

INFORMATION FOR BIDDERS

WEST HAVEN INTER URBAN TRAIL PROJECT

NOBLESVILLE, INDIANA

Bids will be received by the Board of Public Works and Safety, City of Noblesville, at the Office of the Clerk-Treasurer, 16 South 10th Street, Noblesville, Indiana, 46060, until 8:30 a.m. (local time) on **August 24, 2010**, and then will be publicly opened and read aloud at 9:00 a.m. on **August 24, 2010**. Any bid(s) received later than 8:30 a.m. (local time) on **August 24, 2010** will be returned unopened.

Each Bid must be submitted in a sealed envelope addressed to the Board of Public Works and Safety, Noblesville, Indiana. Each sealed envelope containing a bid must be plainly marked on the outside as "WEST HAVEN INTER URBAN TRAIL"; the envelope must also bear on the outside the name, address and license number of the Bidder, if applicable. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to the Office of the Clerk-Treasurer at the City of Noblesville, 16 South 10th Street, Noblesville, Indiana 46060.

Each Bid must be made on the required Bid Form and all blank spaces for bid prices filled in, in ink or typewritten, and the entire Bid Package contained within these Contract Documents must be fully completed and executed when submitted. Only one copy of the Bid Package is required. Any bid(s) received by the Clerk-Treasurer after the time specified in the Advertisement for Bids, will be rejected and returned unopened.

1. DEFINITIONS

OWNER: The City of Noblesville. The Owner will be represented by and through the Department of Engineering.

CONTRACTOR: Person, Firm, or Corporation to whom the within Contracts are awarded by the Owner, and who is subject to the terms thereof.

ENGINEER: The City of Noblesville – Department of Engineering.

SPECS: Specifications, which include all written material bound herein.

2. COMPLETENESS OF CONTRACT DOCUMENTS

2.1 Upon issue to prospective Bidders, the physical makeup and content of the Plans, Specifications, and extra Bid Forms are intended to be complete for preparing and submitting Proposals. However, the Bidder shall verify to the Bidder's own satisfaction that all material issued to the Bidder is complete. Should he discover that a page, sheet, etc., is missing, the Bidder shall notify the ENGINEER, in writing, and it will be forwarded to the Bidder. After bids have been submitted, no claims of ignorance of the requirements of bidding or of construction due to such missing material will be recognized.

3. QUALIFICATIONS OF BIDDERS

- 3.1 Each Bidder shall provide and complete Form No. 96 (Revised 2005) as prescribed by the State Board of Accounts, which states the Bidder's qualifications, experience record in constructing the type of improvement required by the Contract Documents, organization and equipment available for the work contemplated, and detailed financial statement. The OWNER shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform all obligations under the Contract and the Bidder shall furnish the Owner all such information and data for this purpose as it may request. The right is reserved to reject any bid where an investigation of the available evidence of information does not satisfy the OWNER that the Bidder is qualified to properly carry out the terms of the Contract.
- 3.2 The Contractor and subcontractors for all of the major construction trades shall show five (5) years of responsible experience with projects of similar type construction or construction management experience.

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 4.1 It is the responsibility of each Bidder before submitting a bid to visit the site and become familiar with and satisfy Bidder as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the work.
- 4.2 The Bidder shall promptly notify the ENGINEER in writing of all conflicts, errors, ambiguities or discrepancies, which the Bidder has discovered in or between the Contract Documents and such other related documents.
- 4.3 Information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site are based upon information and data furnished to the OWNER, by owners of such underground facilities or others, and OWNER does not assume responsibility for the accuracy or completeness thereof.
- 4.4 The site survey information (boundary, site elements, utilities, and contour information) was taken from drawings prepared by others, aerial photographs, plans provided by the City of Noblesville and information gathered from site visits. The OWNER assumes no liability as to the accuracy of the information.
- 4.5 Before submitting a bid, each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or finishing of the work, or which relates to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by the Bidder, and safety precautions and programs incident thereto, or which the Bidder deems necessary to determine the bid for performing and furnishing the work in accordance with the time, price, and other terms and conditions of the Contract Documents.

- 4.6 Upon request, the OWNER will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies, as each Bidder deems necessary for submission of a bid. The Bidder must fill all holes and clean up and restore the site to its former condition upon completion of such explorations, investigations, tests, and studies.
- 4.7 The submission of a bid will constitute an incontrovertible representation by the Bidder that the Bidder has complied with every requirement of this Article 4, that without exception, the bid is premised upon performing and furnishing the work required by the Contract Documents and applying the specific means, methods, techniques, sequences, or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents that the Bidder has given the OWNER written notice of all conflicts, errors, ambiguities, and discrepancies that the Bidder has discovered in the Contract Documents and the written resolutions thereof by the ENGINEER is acceptable to the Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the work.

5. AVAILABILITY OF LAND FOR WORK

- 5.1 The lands upon which the work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by the Contractor in performing the work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the work are to be obtained and paid for by the Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by the OWNER.

6. INTERPRETATIONS AND ADDENDA

- 6.1 If any person who contemplates submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of the Plans, Specifications, or other proposed Contract Documents, then they may submit to the OWNER a written request for an interpretation thereof. The person submitting this request will be responsible for its prompt delivery. Any interpretation of the proposed document will be made only by addendum duly issued, with a copy of each made addendum mailed or delivered to each prospective Bidder having received a set of Contract Documents. The OWNER will not be responsible for any other explanation or interpretation of the proposed documents. Written requests received less than 10 days prior to bid date may not be answered. The Bidder shall acknowledge receipt of all addenda issued by number on the summation page of his Proposal.
- 6.2 Attention is called to the fact that the SPECS govern over the Contract Drawings and that the Information for Bidders, Supplemental General Conditions, General Requirements of Detailed Specifications, and Detailed Specifications shall govern over the General Conditions.

7. BID SECURITY

- 7.1 Each Bid must be accompanied by a Bid Bond payable to the OWNER for five percent (5%) of the total amount of the bid including any and all Alternates. When the Contract is executed, the bonds of the unsuccessful Bidders will be returned. The Bid Bond of the successful Bidder will be retained until the Payment Bond and Performance Bond have been executed and approved, after which it will be returned. A certified check in the amount of five percent (5%) of the total bid amount may be used in lieu of a Bid Bond.
- 7.2 Bid Bond shall be furnished with a surety company or companies whose financial standing and record of service is satisfactory to the OWNER and whose name appears on the most current Treasury Department Circular 570, as amended and is authorized to do business in the State of Indiana.

8. CONTRACT TIME

- 8.1 The successful Bidder of the work shall be prepared to complete the furnishing and construction of this project and be substantially completed and ready for use as defined in the Special Provisions on or before November 1, 2010. Final completion of project shall be on or before November 19, 2010.
- 8.2 In estimating the time necessary for completing the job, allowance has been made, so far as possible, for all ordinary delays and hindrances incidental to such work, such as weather, delays in securing materials, workmen, or otherwise. Delays caused by earthquake, tornado, cyclone, riot, national defense, insurrection or war, or by abandonment of the work by workmen engaged thereon through no fault of the CONTRACTOR, will be considered a basis for extension of time by the OWNER, if supported by written request for such extension, filed with the OWNER within 15 days of the occurrence of the incident causing delay.
- 8.3 In the event seasonal limitations preclude completion of surface restoration construction during this construction season, an extension of the completion date for completion of that portion of the Contract may be granted. In such an event, the CONTRACTOR will still be required to provide a substantially completed project, ready for use within the Contract time of completion.

9. LIQUIDATED DAMAGES

- 9.1 If the work embraced by this Contract is not fully or substantially completed on or before the time or date set for full or substantial completion, or any extension thereof, the actual damage for the delay will be impossible to determine, and in lieu thereof, the CONTRACTOR shall pay the OWNER as fixed, agreed and liquidated damages, the sum of \$500.00 per day for each calendar day of delay until the work is satisfactorily completed. Whatever sums may be due the OWNER as liquidated damages for delay may be deducted from payments due the CONTRACTOR or may be collected from the CONTRACTOR or the CONTRACTOR'S surety at the option of the OWNER. Time is of the essence.

10. SUBCONTRACTORS, SUPPLIERS AND OTHERS

- 10.1 Sections or subsections of any Division of the SPECS are only for clarity of reading and reference and not be taken as a Division into trades, subtrades or sections of work of any kind.
- 10.2 Any specified responsibility to either a subcontractor or a trade does not relieve the CONTRACTOR of the overall responsibility for the completion of the work as specified or as shown on the plans.
- 10.3 A list of the names of CONTRACTOR'S proposed Subcontractors or Suppliers having a direct contract with CONTRACTOR.
- 10.4 The total work to be completed by the prime CONTRACTOR shall exceed 50 percent of the total contract value of the work to be completed.
- 10.5 Joint ventures, as defined and described in the INDOT Specification Manual, will be evaluated and may be permitted by the OWNER. Joint ventures shall be limited by partnership of no more than two persons, firms or corporations who each meet the requirements of the Bid Package. No partner in the proposed joint venture shall be responsible for the completion of less than 25 percent of the total contract value of the work to be completed.
- 10.6 In determining the amount or percentage of work to be provided by a prime contractor for this project, only materials obtained and/or supplied by a parent company or wholly-owned subsidiary of the prime shall be considered.

11. BIDDING REQUIREMENTS

- 11.1 The Bid Package consists of the following documents:
 - A. Proposal
 - B. Itemized Proposal
 - C. Bid Bond or Certified Check
 - D. Wage Stipulation Affidavit
 - E. Wage Scale
 - F. Form 96 (Revised 2005) as required by the Indiana State Board of Accounts including attachment of Contractor's Financial Statement.
 - G. List of Proposed Suppliers, Subcontractors.
 - H. List of Bidder Experience on Public Works Projects
 - I. Non-Collusion Affidavit
- 11.2 The bid must be properly and completely executed and submitted on all forms contained in the Bid Package. The Base Bid for West Haven Inter Urban Trail, is required for a Bid to be considered responsive. The prices must be written in the bid in words and must also be stated in figures. In case of variation, the tabulation of unit prices multiplied by the estimated quantities, as depicted on the Itemized Proposal, shall prevail.
- 11.3 No bid may be withdrawn after the opening of the bids for a period of 60 days.

- 11.4 The legal status of the Bidder, which is as a corporation, partnership or individual, must be stated in the Proposal. A corporate Bidder must name that state in which it was incorporated and whether it is authorized to do business in Indiana. A partnership Bidder must give the full names and addresses of all partners.
- 11.5 When a firm submits a bid, the individual names of all its members shall be written out and shall be signed in full, but the signers may, if they choose, describe themselves in addition as doing business under a firm name and style.
- 11.6 In order for the OWNER to determine the ability, experience, and capital resources of the Bidder, each Bidder shall execute completely and accurately in all respects, Form 96 (Revised 2005), including attachment to Section III, "Contractor's Financial Statement."
- 11.7 In cases where a corporation submits a bid, the bid must be signed in the name of and under the seal of the corporation by a duly authorized officer or agent of the corporation and the address given. Such officer or agent must present legal evidence that they have lawful authority to sign said bid, that the signature is binding upon the corporation and that the corporation has legal existence. In the event any corporation, organized and doing business under the laws of any foreign state, is the successful Bidder, such corporation, before a Contract for said work is executed, shall present evidence that it is authorized to do business in the state where this project is located.
- 11.8 Agents in submitting bids shall furnish attached thereto a Power of Attorney showing proper authority to submit the Bid on behalf of the Principal.
- 11.9 Those bids which are signed for a partnership should be signed by all of the partners or by an Attorney in Fact.
- 11.10 The Bidder, or Sub-Contractor performing work, must provide five (5) five years of responsible experience with projects of similar type construction or construction management experience,

12. REJECTION AND WITHDRAWAL OF BIDS

- 12.1 The OWNER may waive any informalities or minor defects or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within 60 days after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified bid holding period, the time may be extended by mutual agreement between the OWNER and the Bidder.
- 12.2 The OWNER may make such investigations as deemed necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any bid if the evidence submitted by, or investigations of such Bidder fail to satisfy the OWNER that such Bidder is

properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

- 12.3 A bid will be rejected if the Bidder does not attend the Pre-Bid Conference.
- 12.4 Any bid submitted by a firm that is not a plan holder and does not appear on the Official Plan Holders List for this project will be deemed non-responsive and non-responsible.
- 12.5 A bid will be rejected if the Bidder adds conditions or alternates not requested in the bid.
- 12.6 A bid will be rejected if the Bid Package is improperly or incompletely executed, improperly submitted or identified, or if **all** documents required in the Bid Package are not included. All documents must be signed and notarized as required to be considered complete.

13. AWARD OF CONTRACT

- 13.1 The OWNER reserves the right to award the contract to the lowest responsible and responsive Bidder, or to reject all bids submitted, subject to the period of time stated in the Advertisement for Bids. The award of the Contract may be made on the Base Bid only, or any combination of the Base Bid and OWNER selected Alternate Bids.
- 13.2 After evaluation of the bids, the OWNER will, generally within 15 days, make tentative selection of the lowest, responsive, responsible Bidder. The Owner will then issue a Notice of Intent to Award to the selected Bidder. The selected Bidder will then be required to execute the Award Package within 10 calendar days from receipt of the Notice of Intent to Award.
- 13.3 The Award Package must be executed and completed as required. It consists of the following documents:
 - A. Performance Bond
 - B. Payment Bond
 - C. Certificate of Insurance
 - D. Contract
 - E. Notice of Intent to Award
 - F. Notice to Proceed
- 13.4 After satisfactory financing arrangements are completed by the Owner and compliance by the Bidder with the provisions in the Contract Documents, the OWNER shall execute the Contract.

14. CONTRACT SECURITY

- 14.1 The lowest, responsive, responsible Bidder as determined by the OWNER will furnish a Performance Bond and Payment Bond, each in the amount of 100 percent of the Contract price, with a surety company acceptable to the OWNER.

Multiple sureties, for either the Performance Bond or Payment Bond that summed together equal the Contract amount will not be accepted.

14.2 The form of Performance and Payment Bond contained in the SPECS shall be used. Attorneys-in-Fact who sign the Performance and Payment Bonds must file with each bond a certified and effective dated copy of their Power of Attorney.

14.3 Bonds shall be furnished with a surety company or companies as bondsmen whose financial standing and record of service is satisfactory to the OWNER and whose name appears on the most current Treasury Department Circular 570, as amended and is authorized to do business in the State of Indiana.

15. SALES AND USE TAXES

15.1 The OWNER is exempt from Indiana Gross Tax (i.e., sales and use tax) and all taxes on materials and equipment to be incorporated in the work. Said taxes shall not be included in the Contract Price.

16. RETAINANGE

16.1 The OWNER shall retain five percent (5%) of the amount of each payment. Retainage amount being held is not to exceed five percent (5%) of the total contract amount. On completion and acceptance of a part of the Work on which the price is stated separately in the Contract Documents, payment may be made in full, including retained percentages, less authorized deductions.

17. INSURANCE

17.1 The successful Bidder (CONTRACTOR) will be required to procure and maintain insurance during the life of this Contract as required in the Supplemental General Conditions.

18. LABOR STANDARDS PROVISIONS GUIDANCE

18.1 Each Bidder's attention is called to the Wage Determination included in the Contract Documents. The Wage Determination establishes minimum wage rates and the Contractor is required to pay the rates for each classification.

19. PRE-BID CONFERENCE

19.1 Attendance at the Pre-Bid Conference shall be mandatory for all Bidders (CONTRACTORS). The Pre-Bid Conference will be held at City Hall, 16 South 10th Street, Noblesville, Indiana August 17, 2010 at 9:00 AM.

20. CONTRACT QUESTIONS

20.1 Submit all questions in writing to the City of Noblesville Department of Engineering, prior to 9:00 AM, local time on **August 20th, 2010**. Questions will only be accepted from firms on the official Plan Holders list. A written response will be emailed to the address on the official Plan Holder's list that is required to be completed at the time

the plans are purchased. No questions will be answered by telephone. The contact person for questions is:

Brian D. Gray, P.E.
City Project Manager
Noblesville Engineering Department
Fax: (317) 776-6322
Email: bgray@noblesville.in.us

(END OF SECTION)

BID PACKAGE
WEST HAVEN INTER URBAN TRAIL PROJECT
NOBLESVILLE, INDIANA

ITEMS

- 1 Proposal
- 2 Itemized Proposal
- 3 Bid Bond
- 4 Wage Stipulation Affidavit
- 5 Wage Scale
- 6 Form 96 (Revised 2005) – **to be provided by Bidder**
- 7 List of Suppliers / Subcontractors
- 8 List of Bidder Experience on Public Works Projects
- 9 Non-Collusion Affidavit

Bidder: _____

Address: _____

City, State, Zip: _____

Phone: _____

Contact: _____

**West Haven Inter Urban Trail Project
Contract: EN-162-02**

ITEMIZED PROPOSAL

Item No.	Description	BASE BID			Extended Price
		Quantity	Unit	Unit Price	
1.0	Mobilization/Demobilization	1	LSUM		
2.0	Construction Engineering	1	LSUM		
3.0	Maintaining Traffic	1	LSUM		
4.0	Clearing Easement	1	LSUM		
5.0	Stone, #2 (Construction Entrance)	100	TON		
6.0	Temporary Silt Fence	2,720	LFT		
7.0	Temporary Inlet Protection	7	EA		
8.0	Excavation, Common	683	CYS		
9.0	Stone Base #53	384	TON		
10.0	HMA Surface, Type A, 12.5mm	211	TON		
11.0	Pipe, Underdrain, 6", Double Wall	1,360	LFT		
12.0	Stone, River Rock, Underdrains	186	TON		
13.0	Structure, Adjust to Grade (Sanitary)	1	EA		
14.0	Restoration and Seeding	2,560	SYS		
15.0	Sodding	873	SYS		
16.0	Landscaping (Sheet L101)	1	LSUM		

Base Bid: Total Estimated Construction Costs = _____

CONTRACTOR: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

CONTACT: _____

EMAIL: _____

**BID BOND
WEST HAVEN INTER URBAN TRAIL PROJECT
EN-1602-02**

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned:

(Name of Principal)

as **PRINCIPAL**, and

_____, as
SURETY are held and firmly bound unto the **BOARD OF PUBLIC WORKS AND
SAFETY, NOBLESVILLE, INDIANA**, hereinafter called the "**OWNER**" in the penal
sum of _____

_____ Dollars (\$ _____),
lawful money of the United States of America, for the payment of which sum well and
truly to be made, we bind ourselves, our heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presence. THE CONDITION OF
THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the
accompanying Bid, dated _____, 20____, for:

WEST HAVEN ENTER URBAN TRAIL PROJECT.

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period
specified therein after the opening of the same, or, if no period is specified, within
sixty (60) days after the said opening, and shall within the period specified therefore,
or, if no period be specified within ten (10) days after the prescribed forms are
presented for signature, enter into a written Contract with the Owner in accordance
with the Bid as accepted, and give bond with good and sufficient surety or sureties,
as may be required, for the faithful performance and proper fulfillment of such
Contract; or in the event of the withdrawal of said Bid within the period specified, or
the failure to enter into such Contract and give such bond within the time specified, if
the Principal shall pay the Owner the difference between the amount specified in said
Bid and the amount for which the Owner may procure the required work or supplies
or both, if the latter amount be in excess of the former, then the above obligation shall
be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument
under their several seals this _____ day of _____, 20 __, the
name and corporate seal of each corporate party being hereto affixed and these
presence duly signed by its undersigned representative, pursuant to authority of its
governing body.

In the presence of:

(Individual Principal Seal)

(Business address including

City, State and Zip Code)

(Business address including

City, State and Zip Code)

Attest:

(Corporate Principal)

(Business address including

City, State and Zip Code)

By Affix
Corporate
Seal

Attest:

Countersigned

(Corporate Surety)

By

By Affix
Corporate
Seal

Attorney-in-Fact, State of _____

(Power of Attorney for person signing for surety company must be attached to bond)

WAGE STIPULATION AFFIDAVIT
WEST HAVEN INTER URBAN TRAIL PROJECT
NOBLESVILLE, INDIANA

The undersigned as a part of the bid for the above project hereby stipulates that if awarded a contract of said bid, the Bidder proposes to pay the minimum, or higher, hourly wages for the various classifications of labor as set out in the wage scale bound herewith and determined by the Owner.

Witness our hands this _____ day of _____, 20_____.

Bidder: _____

Address: _____

By: _____, _____
Title

Associated Builders & Contractors 2010

Hamilton County -- (Current) through 06/11

<u>Classifications</u>	<u>Classes</u>	<u>Wage</u>	<u>Fringe</u>	<u>Total</u>
Asbestos Abatement				
	-Removes and discards asbestos materials			
	Skilled	25.25	7.00	32.25
	Semi-skilled	N/A	N/A	N/A
	Unskilled	N/A	N/A	N/A
Brick/Block/Stone/Cement Mason				
	-Lays and sets building materials, brick and stone, and finishes surfaces			
	Skilled	24.00	7.15	31.15
	Semi-skilled	19.00	5.50	24.50
	Unskilled	14.00	5.00	19.00
Carpenter				
	-Constructs, erects, installs and repairs various woods and wallboards			
	Skilled	23.00	6.00	29.00
	Semi-skilled	15.50	5.50	21.00
	Unskilled	12.00	4.00	16.00
Interior Finish Technician				
	-Erects metal framing, installs drywall, seals and plasters			
	Skilled	21.00	5.40	26.40
	Semi-skilled	14.00	4.50	18.50
	Unskilled	11.00	4.00	15.00
Electrician				
	-Plans, installs, and repairs wiring, fixtures, lines and instrumentation controls			
	Skilled	25.00	7.00	32.00
	Semi-skilled	17.00	6.00	23.00
	Unskilled	13.00	5.00	18.00
Sound and Communication				
	-Installs data hardwiring			
	Skilled	18.50	5.20	23.70
	Semi-skilled	13.00	4.00	17.00
	Unskilled	10.50	3.80	14.30
Glazier				
	-Installs glass in windows or on surfaces			
	Skilled	20.00	6.25	26.25
	Semi-skilled	14.00	5.00	19.00
	Unskilled	11.00	3.75	14.75
Mechanical Insulator				
	-Covers, seals, fits, measures, cuts, and attaches insulating materials			
	Skilled	24.60	6.50	31.10
	Semi-skilled	18.00	6.00	24.00
	Unskilled	13.50	4.75	18.25

Hamilton County – (Current Continued) Associated Builders & Contractors 2010

<u>Classifications</u>	<u>Classes</u>	<u>Wage</u>	<u>Fringe</u>	<u>Total</u>
Iron Worker				
	-Raises, places, and unites girders and columns of structural steel			
	Skilled	24.65	7.15	31.80
	Semi-skilled	18.00	6.15	24.15
	Unskilled	13.00	5.15	18.15
Metal Building Mechanic				
	-Assembles prefabricated metal buildings			
	Skilled	20.00	6.00	26.00
	Semi-skilled	13.00	5.00	18.00
	Unskilled	10.50	3.50	14.00
Millwright				
	-Installs machinery and equipment			
	Skilled	23.60	6.10	29.70
	Semi-skilled	17.00	5.00	22.00
	Unskilled	12.00	4.00	16.00
Painter				
	-Applies various liquid coverings to surfaces			
	Skilled	20.80	5.30	26.10
	Semi-skilled	13.80	4.25	18.05
	Unskilled	10.50	3.50	14.00
Roofer				
	-Covers roof with roofing materials			
	Skilled	21.00	5.75	26.75
	Semi-skilled	14.00	5.00	19.00
	Unskilled	11.50	4.00	15.50
Sprinkler Fitter				
	-Installs and repairs fire protection systems			
	Skilled	23.50	7.10	30.60
	Semi-skilled	15.75	6.00	21.75
	Unskilled	12.00	5.00	17.00
Floor Coverer/Setter				
	-Sets tile and terrazzo, applies pigment and marble, and lays carpet			
	Skilled	20.00	5.00	25.00
	Semi-skilled	13.00	4.00	17.00
	Unskilled	10.00	3.25	13.25
Truck Driver				
	-CDL-licensed to transport equipment, liquid, packaged or granular dirt and moves personnel			
	Skilled	18.00	4.00	22.00
	Semi-skilled	N/A	N/A	N/A
	Unskilled	N/A	N/A	N/A

Hamilton County – (Current Continued) Associated Builders & Contractors 2010

<u>Classifications</u>	<u>Classes</u>	<u>Wage</u>	<u>Fringe</u>	<u>Total</u>
Operating Engineer				
-Operates all types of power construction and heavy equipment				
	Skilled	23.50	6.50	30.00
	Semi-skilled	17.00	5.50	22.50
	Unskilled	N/A	N/A	N/A
Mechanical Technician (HVAC, Sheet Metal)				
-Fabricates, assembles, installs, and repairs sheet metal products and HVAC equipment				
	Skilled	24.85	6.20	31.05
	Semi-skilled	18.00	5.50	23.50
	Unskilled	13.60	5.00	18.60
Pipe Worker (Plumber, Pipefitter)				
-Fabricates, assembles, installs and maintains piping and piping systems, fixtures and equipment for processing systems and drainage systems				
	Skilled	26.50	7.50	34.00
	Semi-skilled	18.50	6.75	25.25
	Unskilled	16.00	5.75	21.75
Elevator Constructor				
-Installs and repairs elevator equipment				
	Skilled	27.00	7.75	34.75
	Semi-skilled	20.00	7.00	27.00
	Unskilled	15.00	5.50	20.50
General Labor				
-Laborers and helpers, in general				
	Skilled	20.00	4.00	24.00
	Semi-skilled	12.00	3.50	15.50
	Unskilled	10.00	2.00	12.00

Project Name: **PER EXHIBIT 'A' ATTACHED**

Common Wage Committee:

Dated this day 6/22/10

Bo Ho (bski)
Representing the Governor of Indiana

David [Signature]
Awarding Agency (Industry Rep)

All projects
Except
UCR Phase
III & IV
and LED

DJBL (OPPOSED)
Indiana AFL-CIO

[Signature]
Awarding Agency (Taxpayer)

[Signature]
Commissioners-County (taxpayer)

CONTRACTOR'S BID FOR PUBLIC WORK – FORM 96

PART I

(To be completed for all bids. Please type or print)

Date: _____

1. Governmental Unit (Owner): _____

2. County : _____

3. Bidder (Firm): _____

Address: _____

City/State: _____

4. Telephone Number: _____

5. Agent of Bidder (if applicable): _____

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of _____

(Governmental Unit) in accordance with plans and specifications prepared by _____

_____ and dated _____ for the sum of

_____ \$ _____

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the governmental unit. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

The contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS (If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States (I.C. 5-16-8-2). I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

ACCEPTANCE

The above bid is accepted this _____ day of _____, _____, subject to the following conditions: _____

Contracting Authority Members:

PART II

(For projects of \$100,000 or more – IC 36-1-12-4)

Governmental Unit: _____

Bidder (Firm) _____

Date: _____

These statements to be submitted under oath by each bidder with and as a part of his bid. Attach additional pages for each section as needed.

SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed for the period of one (1) year prior to the date of the current bid?

Table with 4 columns: Contract Amount, Class of Work, Completion Date, Name and Address of Owner

2. What public works projects are now in process of construction by your organization?

Table with 4 columns: Contract Amount, Class of Work, Expected Completion Date, Name and Address of Owner

3. Have you ever failed to complete any work awarded to you? _____ If so, where and why?

4. List references from private firms for which you have performed work.

SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE

1. Explain your plan or layout for performing proposed work. (Examples could include a narrative of when you could begin work, complete the project, number of workers, etc. and any other information which you believe would enable the governmental unit to consider your bid.)
2. Please list the names and addresses of all subcontractors (i.e. persons or firms outside your own firm who have performed part of the work) that you have used on public works projects during the past five (5) years along with a brief description of the work done by each subcontractor.
3. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you will require a bond. However, if you are unable to currently provide a listing, please understand a listing must be provided prior to contract approval. Until the completion of the proposed project, you are under a continuing obligation to immediately notify the governmental unit in the event that you subsequently determine that you will use a subcontractor on the proposed project.
4. What equipment do you have available to use for the proposed project? Any equipment to be used by subcontractors may also be required to be listed by the governmental unit.
5. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? If not, please explain the rationale used which would corroborate the prices listed.

SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the bidder's capability for completing the project if awarded.

BID OF

_____ (Contractor)

_____ (Address)

FOR
PUBLIC WORKS PROJECTS
OF

Filed _____, _____

Action taken _____

LIST OF SUPPLIERS / SUBCONTRACTORS

Prescribed by State Board of Accounts

State Form 52414
Form No. 96 (Revised 2005)

CONTRACTOR'S BID FOR PUBLIC WORK – FORM 96

PART I

(To be completed for all bids. Please type or print)

Date: _____

1. Governmental Unit (Owner): _____

2. County : _____

3. Bidder (Firm): _____

Address: _____

City/State: _____

4. Telephone Number: _____

5. Agent of Bidder (if applicable): _____

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of _____
(Governmental Unit) in accordance with plans and specifications prepared by _____
_____ and dated _____ for the sum of
_____ \$ _____

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the governmental unit. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

The contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS (If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States (I.C. 5-16-8-2). I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

NOBLESVILLE, INDIANA

<u>Subtrade</u>	<u>Proposed Subcontractor</u>	<u>Address</u>
Asphalt Paving	_____	_____
Asphalt Supplier	_____	_____
Aggregate Supplier	_____	_____
Underdrain Installer	_____	_____
Landscaper Supplier	_____	_____
Landscaper Installer	_____	_____
Erosion Control Installer	_____	_____
Seeding & Restoration	_____	_____
Sod Supplier	_____	_____
Sod Installer	_____	_____
Earthwork	_____	_____
Construction Eng	_____	_____
MOT	_____	_____

For the Bidder's convenience and to ensure that a complete list is submitted, a list of possible subtrades has been printed above. The Bidder shall make an entry against each possible subtrade listed either by naming the proposed subcontractor or by entering "by own forces", whichever applies. No blank spaces are to be left.

If, in addition, the Bidder proposes to sublet a part of the work which is not listed above, he shall add the subtrade and the proposed Subcontractor's name to the list.

Failure by a Bidder to comply with the foregoing requirements may result in his bid being disqualified.

**LIST OF BIDDER EXPERIENCE ON
PUBLIC WORKS PROJECTS**

**WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02**

NOBLESVILLE, INDIANA

The principal Bidder on this project shall exhibit at least five years of progressive work experience on five separate public works projects and contracts that equal or exceed the scope, value and nature of this project.

All projects used to demonstrate experience shall be projects completed as direct contracts with a local, municipal, county, or state public agency. Projects with non-public agencies and not publicly funded will not be considered as relevant project experience. All projects used to demonstrate experience shall be accompanied with reference and contact information. No blank spaces are to be left.

Failure by a Bidder to comply with the foregoing requirements may result in his bid being disqualified.

Project No. 1 _____

Begin / Complete Dates _____ / _____ / _____ -- _____ / _____ / _____

Project Description _____

Location _____

Bidder's Relevant Work _____
Work Experience _____

Construction Cost _____

Reference _____

NON-COLLUSION AFFIDAVIT

WEST HAVEN INTER URBAN TRAIL PROJECT

NOBLESVILLE, INDIANA

The Bidder, by its officers and agents or representatives present at the time of filing this bid, being duly sworn, on their oaths say that neither they nor any of them have in any way directly or indirectly entered into any arrangement or agreement with any other Bidder or with any public officer whereby such affiant or affiants, or either of them has paid or is to pay such other Bidder or public officer anything of value whatsoever, or such affiant or affiants, or either of them has not directly or indirectly entered into any arrangement with any other Bidder or Bidders which tends to or does lessor or destroy free competition in the letting of the contract sought for by the attached bids; that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid, or delivered to any person whomsoever to influence the acceptance of the said bid or awarding of the Contract, nor has this Bidder any agreement or understanding of any kind whatsoever with any person whomsoever, to pay, deliver to, or share with any person in any way or manner any of the proceeds of the Contract sought by this bid.

Witness our hands this _____ day of _____, 2010.

Name: _____

Address: _____

By: _____,

Title

AWARD PACKAGE
WEST HAVEN INTER URBAN TRAIL PROJECT
NOBLESVILLE, INDIANA

ITEMS

- 1 Performance Bond
- 2 Payment Bond
- 3 Contract
- 4 Notice of Intent to Award
- 5 Notice to Proceed

PERFORMANCE BOND

**WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02**

KNOW ALL MEN BY THESE PRESENTS, that

_____ (Name of Contractor)

_____ (Address of Contractor)

a _____, hereinafter called Principal, and

_____ (Name of Surety)

_____ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto:

_____ the Board of Public Works and Safety, Noblesville, Indiana
(Name of Owner)

_____ 16 South 10th Street, Noblesville, Indiana 46060
(Address of Owner)

hereinafter called **OWNER**, in the penal sum of _____

_____ Dollars
(\$ _____).

in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the **OWNER**, dated the _____ day of _____, 20 _____, a copy of which is hereto attached and made a part hereof for the construction of:

WEST HAVEN INTER URBAN TRAIL PROJECT

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the **OWNER**, with or without notice to the **SURETY** and during the one year guaranty period, and if the Principal shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the **OWNER** from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the **OWNER** all outlay and expense which the **OWNER** may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said **SURETY**, for value received hereby stipulates and agrees that no charge, extension of time, alteration or addition to the terms of the Contractor to **WORK** to be performed thereunder of the **SPECIFICATIONS** accompanying 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 Contract or to the **WORK** or to the **SPECIFICATIONS**.

PROVIDED, FURTHER, that no final settlement between the **OWNER** or **CONTRACTOR** shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied.

PROVIDED, FURTHER, that this bond is furnished to the **OWNER** in compliance with I.C. 36-1-12-14 as a statutory bond and said statute is incorporated herein by reference and made a part of this Performance Bond, which statute requires the wording of I.C. 36-1-12-14(e) to be specified on the Performance Bond.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts,
(Number) each one of which shall be deemed an original, this the _____ day of _____, 20 _____.

ATTEST:

(Principal) Secretary

Principal

(SEAL)

(Witness as to Principal)

By _____
(Name)

(Address)

(Address)

Surety

ATTEST:

(Surety) Secretary

(SEAL)

(Witness to Surety)

By _____
(Attorney-in-Fact)

(Address)

(Address)

NOTE: Date of **BOND** must not be prior to date of Contract.
If **CONTRACTOR** is partnership, all partners should execute **BOND**.

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 where the Project is located.

PAYMENT BOND

**WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02**

KNOW ALL MEN BY THESE PRESENTS, that

_____ (Name of Contractor)

_____ (Address of Contractor)

a _____, hereinafter called Principal, and

_____ (Name of Surety)

_____ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto:

_____ the Board of Public Works and Safety, Noblesville, Indiana (Name of Owner)

_____ 16 South 10th Street, Noblesville, Indiana 46060 (Address of Owner)

hereinafter called **OWNER**, in the penal sum of _____

_____ Dollars (\$ _____).

in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the **OWNER**, dated the _____ day of _____, 20 ____, a copy of which is hereto attached and made a part hereof for the construction of:

_____ **WEST HAVEN INTER URBAN TRAIL PROJECT** _____

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, **SUBCONTRACTORS**, and corporations furnishing materials for or performing labor in the prosecution of the **WORK** provided for in such Contract, and any authorized extension or modification thereof, including all amounts due for lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such **WORK**, and all insurance premiums on said **WORK**, and for all labor, performed in such **WORK** whether by **SUBCONTRACTOR** or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said **SURETY**, for value received hereby stipulates and agrees that no charge, extension of time, alteration or addition to the terms of the Contractor to **WORK** to be performed thereunder of the **SPECIFICATIONS** accompanying 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 Contract or to the **WORK** or to the **SPECIFICATIONS**.

PROVIDED, FURTHER, that no final settlement between the **OWNER** or **CONTRACTOR** shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied.

PROVIDED, FURTHER, that this bond is furnished to the **OWNER** in compliance with I.C. 36-1-12-13.1 as a statutory bond and said statute is incorporated herein by reference and made a part of this Payment Bond, which statute requires the wording of I.C. 36-1-12-13.1(c) to be specified on the Payment Bond.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts,
(Number) each one of which shall be deemed an original, this the _____ day of _____, 20_____.

ATTEST:

(Principal) Secretary

Principal

(SEAL)

(Witness as to Principal)

By _____
(Name)

(Address)

(Address)

Surety

ATTEST:

(Surety) Secretary

(SEAL)

(Witness to Surety)

By _____
(Attorney-in-Fact)

(Address)

(Address)

NOTE: Date of **BOND** must not be prior to date of Contract.
If **CONTRACTOR** is partnership, all partners should execute **BOND**.

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 where the Project is located.

CONTRACT

**WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02**

NOBLESVILLE, INDIANA

This Contract is dated as the _____ day of _____, 20 _____.

between the Board of Public Works and Safety, Noblesville, Indiana
(hereinafter called **OWNER**)

and _____
(hereinafter called **CONTRACTOR**)

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

Article 1. WORK

1.1 **CONTRACTOR** shall complete all Work as specified or indicated in the Contract Documents. Base bid work for which proposals are to be received is for the construction of approximately 1300 linear feet of 8 foot wide pedestrian/bike trail to include grading and landscaping.

1.2 The project for which work is to be performed under the Contract Documents is generally described as:

WEST HAVEN INTER URBAN TRAIL PROJECT

Article 2. OWNER

2.1 The Project is being administered by the City of Noblesville – Department of Engineering, which is hereinafter serving as agent for the Board of Public Works and Safety, Noblesville, Indiana. The City of Noblesville – Department of Engineering will assume all duties and responsibilities and will have the rights and authority assigned to **OWNER** under the Contract Documents in connection with completion of the Work.

Article 3. CONTRACT TIME

3.1 The successful Bidder of the work shall be prepared to complete the furnishing and construction of this project and be substantially completed and ready for use as defined in the Special Provisions.

3.2 Liquidated Damages. **OWNER** and **CONTRACTOR** recognize that time is of the essence of this Agreement and that **OWNER** will suffer financial loss if the Work is not completed within the time specified in Paragraph 3.1. They also recognize the delays, expense and difficulties involved in proving in legal or arbitration proceedings the actual loss suffered by **OWNER** if the Work is not completed on time. Accordingly, instead of requiring any such proof, **OWNER** and **CONTRACTOR** agree that as liquidated damages for delay (but not a penalty) **CONTRACTOR** shall pay **OWNER** Five Hundred Dollars and No Cents (\$500.00) per day for each calendar day of delay until the work is satisfactory completed, for each phase of the Contract as specified in Paragraph 3.1.

Article 4. CONTRACT PRICE

4.1 The **OWNER** shall pay the **CONTRACTOR** for performance of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the established unit price for each separately identified item of Unit Price Work, as described in the Itemized Proposal, multiplied by the final quantity of that item. Based on the estimated quantities of each item and the submitted unit prices, this amount is

_____ dollars

(\$ _____),

which the **CONTRACTOR** agrees to receive and accept.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment. Applications for Payment will be processed by **OWNER**.

5.1 Progress Payments. **OWNER** shall make progress payment on account of the Contract Price on the basis of **CONTRACTOR's** Applications for Payments, on or about the 10th of each month during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values listed in the Itemized Proposal.

5.2 Final Payment. Upon completion and acceptance of the Work, **OWNER** shall pay the remainder of the Contract Price.

Article 6. INTEREST

All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 7. CONTRACTOR'S REPRESENTATION

In order to induce **OWNER** to enter into this Contract, **CONTRACTOR** makes the following representations:

7.1 CONTRACTOR is familiar with the nature and extent of the Contract Documents, work locality and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the Work.

7.2 CONTRACTOR has studied carefully all 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 the City of Noblesville – Department of Engineering, in the preparation of the Drawings 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 deemed 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,

7.4 **CONTRACTOR** has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

7.5 **CONTRACTOR** has given **OWNER** written notice of all conflicts, errors, or discrepancies that have been discovered in the Contract Documents and the written resolution thereof by **OWNER** is acceptable to **CONTRACTOR**.

Article 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire Contract between **OWNER** and **CONTRACTOR** are made a part hereof as is attached to this Contract and consist of the following:

- 8.1 This Contract (Pages 1 to 6, inclusive)
- 8.2 Advertisement for Bids
- 8.3 Information for Bidders
- 8.4 Bid
- 8.5 Bid Bond or Certified Check
- 8.6 Wage Scale Determination
- 8.7 Wage Stipulation Affidavit
- 8.8 List of Suppliers / Subcontractors
- 8.9 Non-Collusion Affidavit
- 8.10 Form 96 (revised 2005)
- 8.11 General Conditions
- 8.12 Supplemental General Conditions
- 8.13 Special Provisions
- 8.14 Payment Bond
- 8.15 Performance Bond
- 8.16 Notice of Intent to Award
- 8.17 Notice to Proceed
- 8.18 Specifications and Drawings prepared and/or issued by the City of Noblesville – Department of Engineering, dated _____.
- 8.19 Addenda:

No. _____, dated _____, 20 ____.
- 8.20 Documents submitted by **CONTRACTOR** prior to Notice of Intent to Award.

8.21 Any Modifications, including Change Orders, duly delivered after execution of Contract.

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.

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 Supplemental 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 bind themselves, their partners, successors, assigns and legal representatives to the other party hereto, their partners, successors, assigns, and legal representatives in respect to all covenants, contracts and obligations contained in the Contract Documents.

Article 10. SAFETY

10.1 CONTRACTOR shall be responsible for the safety of employees at all times and shall provide all equipment to ensure their safety. **CONTRACTOR** shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state or local. **CONTRACTOR** shall hold harmless and indemnify the City of Noblesville from, for, and against any claim of any person in tort,

contract, or otherwise arising out of a job-related injury, whether physical of otherwise.

IN WITNESS WHEREOF, the parties hereto have signed this Contract in triplicate. One counterpart each has been delivered to **OWNER, CONTRACTOR** and **CITY OF NOBLESVILLE – DEPARTMENT OF ENGINEERING**. All portions of the Contract Documents have been signed or identified by **OWNER** and **CONTRACTOR**.

This Contract will be effective on _____, 20 _____.

OWNER:

CONTRACTOR:

**City of Noblesville
BOARD OF PUBLIC WORKS AND SAFETY**

John Ditslear, Mayor

(Corporate Seal)

Lawrence J. Stork, Member

Attest _____

Jack E. Martin, Member

Address for giving notices

Attest _____
Janet S. Jaros, Clerk-Treasurer

Address for giving notices

License No. (if applicable)

_____ 16 South 10th Street

_____ Noblesville, IN 46060

Agent for service of process

NOTICE OF INTENT TO AWARD

TO: _____

Project Description: WEST HAVEN INTER URBAN TRAIL PROJECT (EN-162-02)

The **OWNER** has considered the **BID** submitted by you for the above described work in Information for Bidders, and Proposal submitted on _____, 20 _____.

You are hereby notified that your **BID** is going to be presented to the Noblesville Board of Public Works and Safety for award for items in the amount of:

_____ Dollars
(\$ _____).

You are required by the Information for Bidders to execute the **Contract** (3 copies) for presentation to the Noblesville Board of Public Works and Safety and furnish the required **CONTRACTOR'S PERFORMANCE BOND** (3 copies), **PAYMENT BOND** (3 copies) and Certificate of Insurance within 10 calendar days from the date of this Notice to you.

If you fail to execute said Contract and to furnish said **BOND** within 10 days from the date of this Notice, said **OWNER** will be entitled to consider all your rights arising out of the **OWNER'S** acceptance of your **BID** as abandoned and as forfeiture of your **BID BOND**. The **OWNER** will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this **NOTICE OF INTENT TO AWARD** to the **OWNER**.

Dated this _____ day of _____, 20 _____.

**BOARD OF PUBLIC WORKS AND SAFETY
NOBLESVILLE, INDIANA**

By _____
John Beery, P.E.

Title _____ City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above **NOTICE OF INTENT TO AWARD** is hereby acknowledged by

_____ (Signature)

this _____ day of _____, 20 _____.

Printed: _____

Title: _____

NOTICE TO PROCEED

DATE: _____

TO: _____

Project Description: WEST HAVEN INTER URBAN TRAIL PROJECT (EN-162-02)
Noblesville, IN

You are hereby notified to commence **WORK** in accordance with the Contract dated _____
_____, 20_____, and you are to substantially complete the **WORK** on or before
_____.

Detail requirements of work completed for each phase are found in the Contract.

CITY OF NOBLESVILLE

By _____
John Beery, P.E.

Title City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above **NOTICE TO PROCEED** is hereby acknowledged by _____

_____ this _____

day of _____, 20____.

By: _____

Title: _____

GENERAL CONDITIONS

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 1.01.A for definition.
17. Drawings—That part of the Contract Documents prepared or approved by ENGINEERS 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 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 biphenyl's.
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, material man, 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

- 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.

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.

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:

- 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.

2.01 Delivery of Bonds

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

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

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

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.

3.03 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.

B. Resolving Discrepancies

- 1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, 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 provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Supplementing Contract Documents

- A. The Contract Documents may be amended to provide for additions, deletions and revisions in

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 adaptation 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.

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

4.01 Availability of Lands

- A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or restrictions not of general application but specifically related to use of the Site 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

- 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 Adjustment

- 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.

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 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.

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

- 2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated 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 therefore as provided in paragraph 10.05.

4.04 Reference Points

- A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER'S judgement are necessary to

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.

4.05 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,

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,

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.

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.

1. 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.

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 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.

5.03 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;

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

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 reasonable 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.A3 through 5.04.A6 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).
- 5.04 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.
- 5.05 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,

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 interest 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.

5.06 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

consultants and subcontractors of each and any of them.

5.07 Receipt and Application of Insurance Proceeds

- 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
- 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 interest 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.

5.08 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 reasonable 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

5.09 Partial Utilization, Acknowledgment of Property Insurer

- 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, Acknowledgement 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.

- 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, suitable qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all time 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 with OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 Service, 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,

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 Supervision and Superintendence

equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below.

- 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.

- 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.

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

- 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.2d, 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 paragraph 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

individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

- 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, Supplier, and such other

- 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, partner, 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 right 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

having a 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.
- 6.08 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)
- 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 unreasonable 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

CONTRACTOR shall maintain in a safe place at the Site on 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.A2 or 6.13.A3 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 a 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, 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 wiring 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 of 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

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.

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.

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.

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 120.05.
- B. CONTRACTOR shall afford each other contractor who is 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

- 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 continuous 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 a experienced and qualified design professional the progress that has been made and the quality of the various aspects 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 reasonable 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 Rejection 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. 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

- 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 3.01, 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,

- 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 Milestone) 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. Cost 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 amount 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 cost 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 holiday, shall be included in the above to the extent authorized by OWNER.

2. Cost of all material 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 material 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

Contract Documents to purchase and maintain.

- B. Costs Excluded: The term Cost of the Work shall not include any of the following items:
- 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.A), provided such losses and damages above 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; and,
 - 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
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, expeditor, 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 agree 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,

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.

11.02 Cash Allowances

- A. It is understood that CONTRACTOR had 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 allowance shall 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. As part of the Proposal review, OWNER shall review each unit price multiplied by the designated quantity for each pay item, as provided in the Itemized Proposal, to verify that there are no mathematical errors. Should a mathematical error exist, OWNER will recognize the submitted unit price, as submitted in the Itemized Proposal, and not recognize the submitted Base Bid and/or Alternate Bid Price(s), as submitted in the Proposal. The summation of the submitted Unit Prices, as illustrated in the Itemized Proposal, multiplied by the provided quantities for each respective pay item will be utilized to determine the lowest, responsive and responsible Bidder.
- B. 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

- C. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.
- D. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:
1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. 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 be 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

12.02.C.2.a through 12.01.C.2.e,
inclusive.

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 of 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.A1 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.2a 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.A4, 11.01.A5, 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

12.02 Change of Contract Times

- A. The Contract Times (or Milestone) 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 Time (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 Dog, 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 inspection, 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; 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 had 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

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 any 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.

13.05 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 of 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).

13.08 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) 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

- 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 Payment
- 3. The amount of retainage with to progress payments will be as stipulated in the Agreement.

B. Review of Applications

- 1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.
- 2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations 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
- 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;
- 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.

- 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:

claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;

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;

There are other items entitling OWNER to a set-off against the amount recommended; or

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

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.

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 instruction, 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

14.09 Waiver of Claims

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.

- 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), incorporated 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, Supplier, 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 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

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.

SUPPLEMENTAL GENERAL CONDITIONS

SUPPLEMENTAL GENERAL CONDITIONS

GENERAL

These Supplemental Conditions amend or supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

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

“Supplementary Conditions” and “Supplemental Conditions” are to be considered interchangeable, and are to be considered these Supplemental General Conditions.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC - 1.01

Add the following language at the end of paragraph 1.01.A.19:

Whenever the word ARCHITECT is used in the Specifications, it shall have the same meaning as the word ENGINEER as defined.

Add the following language at the end of paragraph 1.01.A.20:

ENGINEER’s Consultants are defined as:

Not Applicable

ARTICLE 2 – PRELIMINARY MATTERS

SC - 2.02

Delete paragraph 2.02.A. in its entirety and insert the following in its place:

A. ENGINEER shall furnish to CONTRACTOR 5 copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

SC - 2.05

Add the following language at the end of paragraph 2.05.A.:

A request for written interpretation or clarification of the Contract Documents shall be submitted on the Clarification/Interpretation Request form provided in the Appendix of this Project Manual.

Delete paragraph 2.05.C. in its entirety and insert the following in its place:

C. Evidence of Insurance:

1. When CONTRACTOR delivers the executed Agreement to OWNER, CONTRACTOR shall also deliver to OWNER, with a copy to each additional insured, identified certificates of insurance (and other evidence of insurance which OWNER or any additional insured may reasonably request) which CONTRACTOR is required to purchase and maintain in accordance with Article 5.

SC - 2.06

Add the following new paragraphs immediately after paragraph 2.06:

The conference will be held at a location selected by OWNER and shall be attended by:

CONTRACTOR's Office Representative.

CONTRACTOR's Resident Superintendent.

CONTRACTOR's Safety Representative.

Subcontractors' or Suppliers' representatives who CONTRACTOR may invite or ENGINEER may request.

OWNER's Representatives.

Representatives of Hamilton County or the Indiana Department of Transportation as OWNER may invite.

ENGINEER's Representatives and ENGINEER's Consultants as ENGINEER may invite.

Local Utility Representatives.

A suggested format would include, but is not limited to:

Project Safety.

Presentation of the preliminary progress schedule.

Liquidated damages and bonuses.

Procedures for handling submittals such as Product Data, Shop Drawings and other submittals.

Direction of correspondence, and coordinating responsibility between CONTRACTORS, if any.

Project meetings.

Equal opportunity requirements.

Laboratory testing of material requirements.

Procedures for inventory of material and equipment stored on-site or off-site storage is authorized.

Review schedule of values, application for progress payment, and progress payment procedures.

Work Change Directive, Written Amendment, and Change Order procedures.

Posting of OWNER's sign.

SC - 2.08

Add the following paragraph immediately after Paragraph 2.07

2.08 *Out-Of-State Contractor Registration Requirement*

Any successful Bidder on Municipal, Township, County or State work in the State of Indiana, whose official address and/or place of business is outside the State of Indiana, must register with the Indiana State Department of Revenue and make arrangements for payment of State Gross or Adjusted Gross Income Tax. Satisfactory evidence of the registration must be submitted to the Owner prior to receipt of any progress payment.

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

SC - 4.02

Add the following new paragraphs immediately after paragraph 4.02.B.:

C. In the preparation of Drawings and Specifications, ENGINEER or ENGINEER'S Consultants have relied upon the following reports of explorations and tests of subsurface conditions at the Site:

The reports and drawings itemized in SC-4.02.C. are not part of the Contract Documents, and the "technical data" contained therein upon which CONTRACTOR may rely as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER and ENGINEER'S Consultants in the preparation of Drawings and Specifications.

SC - 4.06

Add the following new paragraphs immediately after paragraph 4.06.I.:

In the preparation of Drawings and Specifications, ENGINEER or ENGINEER'S Consultants have relied upon the following reports relating to a Hazardous Environmental Condition at the Site, if any:

NONE

The reports itemized in SC-4.06.J. are not part of the Contract Documents, but the "technical data" contained therein upon which CONTRACTOR may rely as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER and ENGINEER'S Consultants in the preparation of Drawings and Specifications.

ARTICLE 5 – BONDS AND INSURANCE

SC – 5.01

Add the following language at the end of paragraph 5.01.C.:

In addition, OWNER will make no further progress payments under the Agreement until CONTRACTOR complies with the provisions of this paragraph.

SC - 5.02

Add the following language at the end of paragraph 5.02.A.:

Surety or insurance companies shall have an A.M. Best rating of A- or better.

SC - 5.03 – CONTRACTOR’S LIABILITY INSURANCE

Add the following paragraph immediately after paragraph 5.03.B:

CONTRACTOR shall, as a prerequisite to this Contract, purchase and thereafter maintain such insurance as will protect him from the claims set forth below which may arise out of or result from CONTRACTOR’s operations under this Contract, whether such operations be by CONTRACTOR or by any SUBCONTRACTORS or by anyone directly or indirectly employed by any or them, or by anyone for whose acts any of them may be liable:

Coverages / Limits Required:

Workers’ Compensation, Disability, Etc.		Statutory
Employer’s Liability :	Bodily Injury by Accident	\$100,000 each accident
	Bodily Injury by Disease	\$500,000 policy limit
	Bodily Injury by Disease	\$100,000 each employee
Comprehensive General Liability		
General Liability:	General Aggregate	\$2,000,000
	Products – Comp/Op Aggregate	\$2,000,000
	Each Occurrence Limit	\$1,000,000
	Fire Damage (any one fire)	\$50,000
	Medical Exp. (any one person)	\$5,000

Property Damage Liability Insurance will provide Explosion, Collapse and Underground Coverage where applicable.

Personal Injury with employment exclusion deleted.		
	Annual Aggregate	\$1,000,000

Comprehensive Automobile Liability - Combined Single Limit (CSL):		
	Each Occurrence	\$1,000,000

Excess Liability Insurance shall provide an umbrella coverage for both Comprehensive General Liability and Comprehensive Automobile Liability with a combined minimum limit of \$2,000,000.

Railroad Protective Liability Insurance shall be provided where applicable.

Limit of Liability:	Each Occurrence	\$2,000,000
	Annual Aggregate	\$6,000,000

With respect to insurance required by this Paragraph include as additional insured (subject to any customary exclusion in respect of professional liability) City of Noblesville and any other persons or entities identified in the Information for Bidders all of whom shall be listed as additional insured, and include coverage for the respective officers and employees of all such additional insured.

Owner’s Liability Insurance

The Contractor shall provide such contractual coverage sufficiently broad to ensure the Owner and each of their offices, agents, and employees as additional insured under the comprehensive general liability insurance required.

Builder’s Risk “All Risk” Property Insurance

The Contractor shall purchase and maintain until final payment property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in

this Information for Bidders or required by Laws and Regulations). This insurance shall include the interest of Owner, Contractor, and Subcontractors (all of whom shall be listed as insured or additional insured parties), shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided in this Information for Bidders, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance or otherwise provided in this Information for Bidders, Contractor shall purchase and maintain similar property insurance on portions of the work stored on and off the site or in transit when such portions of the work are to be included in an Application for Payment.

The Contractor shall deliver to the Owner, with copies to each additional insured identified, certificates of insurance (and other evidence of insurance requested by the Owner or any other additional insured) which the Contractor is required to purchase and maintain.

Insurance is required as a measure of protection and the Contractor's liability is not to be limited by the amounts specified in the required insurance policies. There shall be no additional compensation for complying with these insurance requirements. The Contractor is required to include costs of such insurance in the bid items.

CONTRACTOR's comprehensive general liability insurance shall also provide coverage for the following:

- Premises and operations;
- Contractual liability insurance as applicable to any hold-harmless agreements
- Completed operations and products; which also must be maintained for a minimum period of two years after final payment and CONTRACTOR shall continue to provide evidence of such coverage to city on an annual basis during the aforementioned period; and
- Broad form property damage - including completed operations;
- Fellow employee claims under Personal Injury;
- Independent Contractors.

With the prior written approval of CITY, CONTRACTOR may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced. Certificates of Insurance, naming the City of Noblesville as an "additional insured", showing such coverage then in force (but not less than the amount shown above) shall be on file with CITY prior to commencement of work. These Certificates shall contain a provision that coverage's afforded under the policies will not be canceled or non renewed until at least sixty (60) days prior written notice has been received by CITY.

S.C. - 5.05

Delete paragraph 5.05.A. in its entirety and insert the following in its place:

CONTRACTOR shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof. CONTRACTOR shall be responsible for any deductible or self-insured retention. The deductible or self-insured retention shall not exceed \$20,000. The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with this paragraph SC-5.05 shall comply with the requirements of paragraph 5.05.C. of the General Conditions.

This insurance shall:

include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER'S consultants and any other individuals or entities identified in the Supplemental Conditions, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of

them each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

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 and 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;

include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

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; and

allow for partial utilization of the Work by OWNER;

include testing and startup; and

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.

Delete paragraph 5.05.D. in its entirety.

Delete paragraph 5.05.E. in its entirety.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

SC - 6.05

Delete the second sentence of Paragraph 6.05.A. in its entirety and insert the following in its place.

Where the specification or description contains or is followed by words reading that no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may not be submitted to ENGINEER for review. Where the specification or description contains or is followed by words reading "or equal", 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 for "or equal" items. Where the specification or description does not contain or is not followed by words reading "or equal" or no substitution 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 for "substitute" items below.

Delete subparagraph 6.05.A.1. in its entirety and replace with the following:

"Or Equal" Items: If in ENGINEER'S sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named, equal in material and constructed quality, 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.

Delete subparagraphs 6.05.A.1.a. and 6.05.A.1.b. in their entirety.

Add the following new subparagraph immediately after paragraph 6.05.A.2.d.:

The application for review of a substitute shall be on the CONTRACTOR'S Request for Substitution form provided in the Appendix of the Contract Documents and included with the submittal. The Installation List included with the Request shall include only installations of the proposed substitute in applications of approximately the same size and complexity, and the same design as those to be furnished for this Project. Include in the Installation List, as a minimum, the OWNER's name, address, and telephone number; ENGINEER's name, address and telephone number; location and name of project; installation date, startup date, and date of final acceptance by OWNER; and application of material or equipment. If the experience indicated by the Installation List does not demonstrate at least 5 years of successful operation of the proposed substitute item, OWNER may require CONTRACTOR and Supplier to furnish, at CONTRACTOR'S expense, a special performance guarantee with surety bond as required by paragraph 6.05.D of the General Conditions with respect to the substitute. Only the time period between final approval of the proposed material or equipment on the referenced project and the Bid date for this Project will count towards the required satisfactory experience of the proposed substitute item. ENGINEER will be the sole judge of acceptability of experience, time credited, and whether the special performance guarantee will be required for a substitute item. ENGINEER will notify CONTRACTOR which proposed substitute(s) would require a special performance guarantee with surety bond.

Delete Paragraph 6.05.E. in its entirety and insert the following in its place:

E. ENGINEER's Cost Reimbursement: ENGINEER will record time required by ENGINEER and ENGINEER's Consultants 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.

Add the following new subparagraph immediately after paragraph 6.05.E.:

1. If a substitute item of material or equipment proposed by CONTRACTOR is approved by ENGINEER, and the substitution requires a change in any of the Contract Documents to adapt the design to the proposed substitute, CONTRACTOR shall notify ENGINEER of the changes and be responsible for the costs involved to revise the design and to make modifications or changes to the construction, including the costs associated with the Work of other contractors due to such variance in design or space requirements. ENGINEER and ENGINEER's Consultants will prepare redesign and drawing revisions. CONTRACTOR shall reimburse OWNER for charges of ENGINEER and ENGINEER's Consultants for redesign and drawing preparation. Reimbursement of ENGINEER shall be based on ENGINEER'S and ENGINEER's Consultants direct labor costs, indirect labor costs, profit on total labor, and any direct non-labor expenses such as travel and per diem.

SC – 6.06

In paragraph 6.06.B. delete the words "Supplementary Conditions" in two places and insert the words "Information for Bidders" in their place.

SC – 6.13

Add the following requirements to paragraph 6.13:

C. The Contractor shall be responsible for all obligations prescribed as employer obligations under Chapter XVII of Title 29, Code of Federal Regulations, Part 1926, otherwise known as "Safety and Health Regulations for Construction" and CFR, Part 1910.46 "Permit Required for Confined Space". The Contractor shall also be responsible for all obligations under IOSHA regulations 29 CFR 1926, Sub-Part P, Trench Safety Systems, as part of the Contract Documents.

SC – 6.16

Add the following new paragraph immediately after paragraph 6.16.A.:

B. In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, and CONTRACTOR cannot be reached, OWNER may act to attempt to prevent threatened damage, injury, or loss. OWNER will give CONTRACTOR and ENGINEER prompt written notice of such action and the cost of the correction or remedy shall be charged against CONTRACTOR. 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 OWNER in response to such an emergency, a Work Change Directive or Change Order will be issued.

SC – 6.17

Add the following new subparagraph immediately after subparagraph 6.17.E.3:

After ENGINEER has reviewed and approved a Shop Drawing or Sample, CONTRACTOR shall provide the material or equipment approved. ENGINEER will not review subsequent submittals of a different manufacturer or Supplier unless CONTRACTOR provides sufficient information to ENGINEER that the approved material or equipment is unavailable, time of delivery will delay the construction progress, or OWNER requests a different manufacturer or Supplier.

ARTICLE 9 – ENGINEER’S STATUS DURING CONSTRUCTION

SC - 9.10

Add the following new paragraph immediately after Paragraph 9.10.E.:

F. When ENGINEER is on the Project site to perform the duties and responsibilities as set forth in the Contract Documents, ENGINEER will comply with CONTRACTOR’S safety plans, programs, and procedures. In the event ENGINEER determines that CONTRACTOR’S safety plans, programs, and procedures do not provide adequate protection for ENGINEER, ENGINEER may direct its employees to leave the Project site or implement additional safeguards for ENGINEER’S protection. If taken, these actions will be in furtherance of ENGINEER’S responsibility to its own employees only, and ENGINEER will not assume any responsibility for protection of any other persons affected by the Work. In the event ENGINEER observes situations which appear to have potential for immediate and serious injury to persons, ENGINEER may warn the persons who appear to be affected by such situations. Such warnings, if issued, shall be given based on general humanitarian concerns, and ENGINEER will not, by the issuance of any such warning, assume any responsibility to issue future warnings or any general responsibility for protection of persons affected by the Work.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

SC – 10.03

Add the following new paragraph immediately after subparagraph 10.03.A.3:

4. Change Orders will be prepared on the form included in the Appendix of this Project Manual.

SC – 10.05

Add the following new subparagraph immediately after paragraph 10.05.A:

Notice of the amount or extent of the claim shall include the following certification:

“CONTRACTOR certifies that this claim is made in good faith, that the supporting data are accurate and complete to the best of CONTRACTOR’S knowledge and belief, and that the amount or time requested accurately reflects the Contract adjustment for which CONTRACTOR believes OWNER is liable.”

ARTICLE 11 – COST OF WORK; CASH ALLOWANCES; UNIT PRICE WORK

SC – 11.03

Delete Paragraph 11.03.C. in its entirety and insert the following in its place:

C. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:

if the total cost of a particular item of Unit Price Work amounts to 5% or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25% from the estimated quantity of such item indicated in the Agreement; and

if there is no corresponding adjustment with respect to any other item of Work; and

if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof; or if OWNER believes that the quantity variation entitles OWNER to an adjustment in the unit price, either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

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

Add the following paragraphs immediately prior to paragraph 12.01 in Article 12:

The Owner may at any time, without notice to any surety, by written order designated or indicated to be a Change Order, make any change in the work within the general scope of the subagreement, including, but not limited to, changes:

In the Specifications (including drawings and designs)

In the time, method or manner of performance of the work.

In the recipient-furnished facilities, equipment, materials, services, or site, or

Directing acceleration in the performance of the work.

A Change Order shall also be any other written order (including direction, instruction, interpretation or determination) from the Owner which causes any change, provided the Contractor gives the Owner written notice stating the date, circumstances and source of the order and that the Contractor regards the order as a Change Order.

Except as provided in this clause, no order, statement or conduct of the Owner shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

If any change under this clause causes an increase or decrease in the Contractor’s cost or the time required to perform any part of the work under this Contract, whether or not changed by any order, the Owner shall make an equitable adjustment and modify the subagreement in writing. Except for claims

based on defective Specifications, no claim for any change shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice. In the case of defective Specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost the Contractor reasonably incurred in attempting to comply with those defective Specifications.

If the Contractor intends to assert a claim for an equitable adjustment under this clause, then the Contractor must, within 30 days after receipt of a written Change Order or the furnishing of a written notice, submit a written statement to the Owner setting forth the general nature and monetary extent of such claim. The Owner may extend the 30-day period. The Contractor may include the statement of claim in the written notice.

No claim by the Contractor for an equitable adjustment shall be allowed, if made after final payment under this subagreement.

SC – 12.01

Delete paragraph 12.01.B.2. in its entirety and insert the following in its place:

2. Where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum which includes an allowance for overhead and profit in accordance with Paragraph 12.01.C.2., or

SC – 12.02

Add the following new paragraph immediately after paragraph 12.02.B.:

C. Time extensions provided under paragraphs 12.03 and 12.05 of the General Conditions will only be allowed for controlling items of Work (critical path).

SC – 12.06

Delete paragraph 12.06.B. in its entirety and insert the following in its place:

B. Except as provided for in paragraph 15.01, CONTRACTOR shall make no claim for damages for delay in the performance of the Work occasioned by acts or neglect by OWNER or any of its representatives, including ENGINEER, or ENGINEER's Consultants, or because of any injunction which may be brought against OWNER or its representative, including ENGINEER or ENGINEER's Consultants, and agrees that any such claim shall be fully compensated for by an extension of time in an amount equal to the time lost due to such delay, and that such time extension shall be CONTRACTOR's sole and exclusive remedy for such delay.

SC 12.07

Under Article 12 of the General Conditions, Change of Contract Price, the following paragraphs shall be inserted:

12.07 Other

For such work performed by a subcontractor, the subcontractor may add up to 10 percent (10%) of the actual net increase in costs for combined overhead and profit, and the Contractor may add up to five percent (5%) of the subcontractor's actual net increase in costs less profit and overhead.

The term "costs" shall include wages paid to labor and pro rata charges for foreman required under the specific order; labor cost burden; cost of materials and supplies; equipment rental and other direct costs that may be approved by the Owner.

Among the items considered overhead are included insurance except unemployment, workmen's compensation and social security; bond premiums, superintendence, timekeeper, clerks, watchmen, use of small tools, incidental job burdens, general office and administrative expense.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

SC – 14.02

Amend the first sentence of subparagraph 14.02.A.1. by striking out the words "20 days" and inserting the words "30 days" in their place.

Amend the first sentence of paragraph 14.02.C. by striking out the words "Ten days" and inserting the words "Twenty days" in their place.

SC – 14.04

Add the following new subparagraphs immediately after paragraph 14.04.A.:

1. CONTRACTOR'S request for issuance of a Certificate of Substantial Completion shall occur after CONTRACTOR has, in the opinion of the ENGINEER, satisfactorily delivered all schedules, guarantees, maintenance and operations instructions, Bonds, certificates or other evidence of insurance required by ARTICLE 5, certificates of inspection, affidavit of wage rate compliance, marked-up record documents (as provided in paragraph GC 6.12) and other documents.

2. The Work will be considered substantially complete when all storm sewer, structures, culverts, ditches and drainage features; all asphalt and concrete paving including all roads, approaches, drives, and multi-use paths; all landscaping including seeding, sodding, and plantings; and street lighting, signs, pavement markings have been provided and the work is completed to the point where the site is fully accessible to public vehicular and pedestrian traffic.

SC – 14.07

Amend the first sentence of subparagraph 14.07.A.1. by striking out the following words: "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"

SC – 14.10

Add the following new paragraph immediately after paragraph 14.09.A.2.:

14.10 Additional Engineering Costs:

A. In addition to the liquidated damages set forth in the Agreement, CONTRACTOR shall be liable for all additional costs for ENGINEER'S services beyond Substantial and Final Completion dates. OWNER will deduct these costs from any moneys due or that may become due CONTRACTOR or Surety and pay ENGINEER for said services.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

SC – 15.04

Amend paragraph 15.04.A. by striking out the words "30 days" in four places and inserting the words "60 days" in their place and by striking out the words "seven days" in two places and inserting the words "ten days" in their place.

ARTICLE 16 – DISPUTE RESOLUTION

Add the following new paragraph immediately after paragraph 16.01:

A. OWNER and CONTRACTOR agree that they shall submit any and all unsettled Claims or counter-claims, disputes, or other matters in question between them arising out of or relation to the Contract Document or the breach thereof to mediation by the Construction Industry Mediation Rules of the American Arbitration Association.

ARTICLE 17 – MISCELLANEOUS

SC – 17.01

Delete Paragraph 17.01.A in its entirety and insert the following in its place:

A. Whenever any provision of the Contract Documents requires the giving of a written notice or the delivery of any Bond, Agreement, Certificate of Insurance or any other item, it will be deemed to have been validly given if delivered in person to the individual, 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 (return receipt), postage prepaid, to the last business address known to the giver of the article.

SC – 17.06

Add the following new paragraph immediately after paragraph 17.05:

17.06 Lien Waivers:

A. OWNER may at any time require CONTRACTOR to furnish lien waivers for labor and materials covered by specified Applications for Payment.

***** END OF SUPPLEMENTARY CONDITIONS *****

INDEX TO SPECIAL PROVISIONS
WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02
NOBLESVILLE, INDIANA

SECTION	PAGE
SP 1	Contract Documents..... 3
SP 2	Contract Time..... 3
SP 3	Pre-Bid Meeting 3
SP 4	Pre-Construction Meeting..... 3
SP 5	Alternate Bids..... 3
SP 6	Permits..... 3
SP 7	Wage Rates 4
SP 8	Contract Award Process..... 4
SP 9	Contract Close Out..... 4
SP 10	Maintaining Traffic..... 4
SP 11	Maintenance During Construction 5
SP 12	Coordination/Cooperation with Utilities..... 5
SP 13	Existing Conditions..... 6
SP 14	Material Acceptance..... 6
SP 15	Excess Material Disposal 6
SP 16	Restoration of Disturbed Areas 7
SP 17	Top Soil 7
SP 18	Barricades 7
SP 19	Construction Noise 7
SP 20	Contractor's Supervision 7
SP 21	Erosion, Sediment Control, and Street Cleaning..... 7
SP 22	Notification of Affected Residents 9
SP 23	Construction Schedule 9
SP 24	Saw-Cutting of Pavement..... 10
SP 25	Material Delivery Tickets 10
SP 26	Progress Estimate Billing 10
SP 27	Pay Items 10
SP 28	Additional Right-of-Way and Easements..... 12
SP 29	(Reserved)..... 12
SP 30	Irrigation Systems and Pet Containment Systems 12
SP 31	Pre-Designation of Project Supervision and Subcontractors 12
SP 32	Earthwork within Project Limits 12
SP 33	Field Tiles..... 13
SP 34	Top of Casting Elevations 13
SP 35	Maintaining of Right-Of-Way and Easement 13
SP 36	Vacuum Testing of Existing Manhole 13
SP 37	Construction Limits..... 13
SP 38	Management of Subcontractors..... 14
SP 39	Benchmark and Section Corners 14
SP 40	Project Materials 14
SP 41	Site Access 14
SP 42	Trail Cross Section Detail 14

SP 1 Contract Documents

The City of Noblesville Standard Drawings and Specifications dated December 11, 2007 and the Indiana Department of Transportation, 2010 Standard Specifications shall be used in conjunction with these Plans, Contract Forms, General Provisions, Special Provisions, Standard Sheets and any addenda, which may be issued for this project.

In the event that conflicting standards and/or specifications exist, the following order shall govern.

1. Special Provisions
2. Information for Bidders
3. Special General Conditions
4. General Conditions
5. Contract Forms
6. Construction Plans
7. Noblesville Standards
8. 2010 INDOT Standard Specifications

It is the intent of these Contract Documents to describe a functionally complete project to be constructed in accordance therewith. Any work, materials or equipment that may reasonably be inferred will be supplied whether or not specifically called for.

SP 2 Contract Time

Notice to Proceed is not anticipated to be given prior to **September 14, 2010**. Project shall be substantially complete and ready for use on or before **October 22, 2010**. Final completion of project shall be on or before **November 19, 2010**. Consideration for Spring plantings will be granted if plant materials used are required to be planted in the Spring.

Liquidated Damages, as noted in the Information for Bidders, are applicable to all phases or time durations defined with the Contract Information documents.

SP 3 Pre-Bid Meeting

If applicable, refer to Advertisement for Bid for date, time, and location.

SP 4 Pre-Construction Meeting

The CONTRACTOR will be required to attend a pre-construction meeting prior to the issuance of the Notice to Proceed. Any sub-contractors of the CONTRACTOR that the ENGINEER deems necessary shall attend the pre-construction meeting. An additional meeting may be required in field between the ENGINEER and CONTRACTOR, which may be on a separate day. In addition, Duke Energy to be present to discuss any special considerations within their easement.

CONTRACTOR shall submit the following at, or prior to, the pre-construction meeting:

1. Construction schedule
2. Job mix formula(s)
3. Specify a project superintendent
4. Three (3) emergency 24-hour contacts
5. Schedule a project walk through with CONTRACTOR's Superintendent and ENGINEER, or designated representative

SP 5 Alternate Bids

There are no alternate bid items for this project.

SP 6 Permits

The following permits are approved:

The CONTRACTOR is responsible for securing all other permits that may be required for this project in accordance with the Standard Specifications.

SP 7 Wage Rates

Wage rates for this work shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the Indiana General Assembly, 1935, as amended. The scale of wages for this contract is included elsewhere in this document.

SP 8 Contract Award Process

The following procedure shall be followed for award of Contract:

1. CONTRACTOR acknowledges receipt of Notice of Intent to Award from OWNER
2. CONTRACTOR submits the following within ten (10) days of receipt of Notice of Intent to Award to ENGINEER for approval by the Noblesville Board of Public Works and Safety:
 - a. Three (3) signed and executed original Contract documents
 - b. Two (2) signed and executed original Performance Bond documents
 - c. Two (2) signed and executed original Payment Bond documents
 - d. One (1) copy of Certificate of Liability Insurance

SP 9 Contract Close Out

Prior to release of final retainage amount to CONTRACTOR, the following process must occur:

1. Project walk-through to be scheduled and completed with representatives present from the OWNER, CONTRACTOR, any and all applicable sub-contractors. Punch list to be generated from this meeting.
2. Punch list to be completed to satisfaction of OWNER.
3. CONTRACTOR will submit the Required As-Built Record Drawings, electronic and hard copy, and have accepted by inspection staff and City's GIS coordinator. (Not Required For This Project)
4. CONTRACTOR will submit request for release of retainage along with Waiver of Liens, Consent of Surety to Final Payment, and One Year Warranty Letter.
5. OWNER will present final close-out to Noblesville Board of Public Works and Safety. Upon approval by Noblesville Board of Public Works & Safety, retainage will be released to CONTRACTOR.

SP 10 Maintaining Traffic

A minimum of one lane of traffic shall be maintained at all times during work hours. One lane of traffic in each direction shall be maintained each evening after construction activities have been completed for the day, unless specifically a road closure has been allowed. Access to all streets, alleys and private drives shall be maintained throughout the construction.

All traffic control shall be in accordance with the Indiana Work Zone Safety Manual (IWZSM) and Section 801 of the INDOT Standards Specifications..

Equipment shall not be used as barricades or temporary traffic control devices. Flagman shall be equipped with ANSI Class 2, or higher, reflective safety vests, "Stop/Slow" paddles, and 2-way radios and shall be used in accordance with the most recent adopted version of the Indiana Manual of Uniform Traffic Control Devices (MUTCD) and/or Indiana Work Zone Safety Manual (IWZSM).

All workers within the roadway shall be wearing ANSI Class 2, or higher, reflective safety vests. During any and all night paving operations, all workers shall be wearing ANSI Class 3 reflective safety vests.

Drums shall be required on all shoulders with a drop offs greater than four inches (4") and shall be spaced per MUTCD and/or IWZSM according to street classification and design speed. Drums shall be required across all driveways and/or roads that are not passable due to construction activities. Such closures shall be limited to a maximum of ten (10) calendar days, unless otherwise approved by ENGINEER.

Road Construction Ahead signs shall be placed at project limits. End Construction signs shall be placed for opposing flow traffic at same location. Signs are to be left up for the duration of the project. Cost of signs shall be included in the price for Maintenance of Traffic.

All other temporary traffic control devices, including temporary striping, labor, materials, etc., necessary for the maintenance of traffic as specified within the Contract Documents, shall be included in the cost of other items for maintaining traffic as described within the Contract Documents.

SP 11 Maintenance During Construction

The work shall be maintained during construction and until the contract is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day with adequate equipment and forces to the end that the roadway, curbs, sidewalk, structures, barricades, and construction signs are kept in satisfactory condition at all times.

Once construction operations have begun within the project limits, during which public vehicular traffic is required to be maintained, the CONTRACTOR shall repair areas as directed, which require special maintenance. If the repair work is determined to be required as a result of damage caused by the CONTRACTOR's operations, the cost of such work shall be borne by the CONTRACTOR. If the areas of the roadway which require repair are due to use by the traveling public or the elements of nature, and are not the fault of the CONTRACTOR, the CONTRACTOR will be paid to repair those areas of the work. Such repair work will be paid for under the appropriate pay items or in accordance with the Contract Documents for extra or unforeseen work.

SP 12 Coordination/Cooperation with Utilities

The CONTRACTOR shall cooperate with all utility companies whose facilities are located within the project areas. Coordination with the utility companies or their contractors shall be maintained to expedite safe and orderly modifications to utility facilities as may be required by construction of these projects.

Notification of the intended work has been sent to the appropriate utility companies on (date) via (email/mail). The CONTRACTOR shall contact all utilities to adjust their facilities (valve boxes/stems, castings, hydrants, etc.), unless the work is included in the list of pay items.

CONTRACTOR shall provide notification to all utilities with facilities in the vicinity of the project limits.

The facilities of Duke Energy exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Tim Hardin of the utility may be contacted at 317-776-5327. Email: tim.hardin@duke-energy.com

The facilities of Comcast may exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Matthew Stringer of the utility may be contacted at 317-776-4486. Email: matthew.stringer@cable.comcast.com

The facilities of Vectren may exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Joanie Clark of the utility may be contacted at 317-776-5532. Email: jclark@vectren.com

The facilities of AT & T may exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Robert Reynolds of the utility may be contacted at 317-252-4548. Email: rr2181@att.com and Tom Spencer at 317-752-9426. Email: tspencer@telecomplacement.com

The facilities of Zayo Bandwidth may exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Pamela Lewis of the utility may be contacted at (317) 432-6197. Email: pamlewis@live.com

The facilities of City of Noblesville Wastewater Utility exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, Ray Thompson of the utility may be contacted at 317-776-6353. Email: rthompson@noblesville.in.us

The facilities of the Westfield Water, Westfield Public Works may exist within the project limits, but are not expected to be affected by the proposed construction. If questions arise, contact Westfield Public Works 317 - 896-5452.

Any repair or replacement work by public utilities shall be completed prior to pavement milling and/or pavement patching or demolition of curb (where required).

Damage to any of the existing public utility facilities within the limits of the project, caused by the CONTRACTOR's operations, shall be repaired / replaced by the CONTRACTOR at no expense to the OWNER.

No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items in the Contract.

SP 13 Existing Conditions

Where new work is to be fitted to existing conditions, the CONTRACTOR shall check all dimensions, elevations and conditions in the field and report any errors or discrepancies to ENGINEER prior to the commencement of any construction activities or assume responsibility for their correctness and the fit of new parts to old. If such parts do not fit properly, CONTRACTOR shall make, at his expense, such alterations to new parts as may be necessary to assure proper fits and connections, which meet the approval of the ENGINEER.

No direct payment shall be made for this work, but, the cost thereof shall be included in the costs of other items of the Contract.

SP 14 Material Acceptance

All concrete and aggregate materials used for this project shall be produced from an INDOT approved source. The CONTRACTOR shall submit material supplier's names and addresses to the ENGINEER, when requested. If requested, the CONTRACTOR shall submit to the ENGINEER a copy of the INDOT certification for each material supplier.

All asphalt mixtures shall be produced by an INDOT Certified HMA plant in accordance with a Quality Control Plan approved by and INDOT District Division of Materials and Tests. If requested, the CONTRACTOR shall submit to the ENGINEER a copy of the INDOT certification for HMA Producer and/or Quality Control Plan.

Material(s) acceptance shall be based on material certification from an INDOT approved source.

SP 15 Excess Material Disposal

All excess material not to be salvaged shall be removed from the project site. Whether the CONTRACTOR uses a private or public waste site, the disposal must comply with all Federal, State and

local ordinances and permit requirements. Upon request, the CONTRACTOR shall supply a copy of all permits obtained or applied for to the ENGINEER.

If a private site is utilized, it shall be with the written permission of the property owner on whose property the material is placed. The CONTRACTOR shall make all the necessary arrangements for obtaining suitable disposal locations.

No direct payment shall be made for excess material disposal, but, the cost thereof shall be included in the costs of other items of the Contract.

SP 16 Restoration of Disturbed Areas

All disturbed grass/lawn areas adjacent to the proposed construction shall be mulch restored with sod or mulched seeding, as directed by ENGINEER. Sodding and seeding shall be done in accordance to most recent City of Noblesville Standards.

Restoration shall occur such that positive drainage is established.

SP 17 Top Soil

The Contractor shall conduct his operations in a manner that the areas designated for the work to be seeded, shall have a minimum depth of 4 inches of sufficient topsoil, in accordance with INDOT Standard Specifications Sections 621.03, 621.05 and 914.01. The Contract shall preserve a sufficient quantity of topsoil from the excavation work and will stockpile if necessary.

No additional compensation shall be allowed for excavation work necessary to retain suitable material for topsoil, stockpiling or placement of topsoil.

Where new curb / sidewalk replaces old, the Contractor shall use topsoil to adjust grade behind new work accordingly. No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items in the Contract.

SP 18 Barricades

The Contract shall employ all necessary day and night guardsmen, and erect and place necessary barricades and lights, and shall use proper precaution to prevent injury to any person or property, and shall omit no reasonable precautions which tend to the security of all persons and property. No open excavations shall be left unprotected. Additional protective devices shall be furnished, if directed by the ENGINEER, at no additional cost to the OWNER.

No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items in the Contract.

SP 19 Construction Noise

The CONTRACTOR shall be required to limit construction noise by maintaining his equipment in proper working order, thereby minimizing the effect of construction noise in the project area.

SP 20 Contractor's Supervision

The CONTRACTOR awarded the work will be required to maintain a superintendent with full authority to direct all construction operations and personnel on the site at all times while construction is in progress.

SP 21 Erosion, Sediment Control, and Street Cleaning

The CONTRACTOR shall provide effective dust/debris control in all phases. Loader-mounted pickup, vacuum truck, power sweepers, or other types of pull type models shall be used in all phases of street cleaning.

The CONTRACTOR shall schedule and conduct his operation to minimize erosion of soils. Construction of drainage facilities and performance of other Contract work, which will contribute to the control of erosion and sedimentation, shall be carried on in conjunction with earthwork operation or as soon thereafter as practicable. The area of bare soils exposed at any one time by construction operation shall be kept to a minimum. Silt fence for perimeter protection shall be installed, as shown on the plans, prior to any land disturbing activities. Prior to suspension of construction operation for appreciable lengths of time, the CONTRACTOR shall shape the earthwork in a manner that will permit storm runoff with a minimum of erosion. Unless otherwise provided for in the Contract, temporary erosion control measures will not be paid for directly, but will be considered as a subsidiary obligation of the CONTRACTOR covered under the various Contract items of work.

Prior to suspension of construction operations for appreciable lengths of time, the CONTRACTOR shall shape the earthwork in a manner that will permit storm runoff with a minimum amount of erosion. Unless otherwise provided for in the Contract, temporary erosion control measures will not be paid for directly, but will be considered as a subsidiary obligation of the CONTRACTOR covered under the various Contract items of work.

The maintenance of all erosion control practices should be done as needed on a weekly basis, after large storms and when directed by the ENGINEER or representative of SWCD/IDEM. If the CONTRACTOR elects to use a pump to control ground and/or surface water, pump discharge filter bags must be used. The bags need to be located so the outflow does not cause erosion and sedimentation of receiving structures/streams and need to be located preferably on undisturbed, well vegetated areas away from open streams.

An erosion control report shall be completed weekly and within one business day after a half inch or more rain storm event by the CONTRACTOR and shall be kept on site and shall be made available for review upon request. The cost of the report will not be paid for directly but shall be included in the cost of other items.

Vehicle and Equipment Maintenance: Onsite vehicle and equipment maintenance should only be used where it is impractical to send vehicles and equipment offsite for maintenance and repair. If maintenance must occur on site, the area where repairs are to be made must be located away from drainage courses. Drip pans and/or absorbent pads should be used during vehicle and equipment maintenance work that involves fluids, unless the maintenance work is performed over an impermeable surface in a dedicated maintenance area. Inspect onsite vehicles and equipment daily at the startup for leaks, and repair immediately. Properly dispose of used oils, fluids, lubricants and spill cleanup materials. Do not place used oil in a dumpster or pour into a storm drain or watercourse. Vehicle

Fueling: Onsite vehicle and equipment fueling should only be used where it is impractical to send vehicles and equipment offsite for fueling. Drip pans and absorbent pads should be used during vehicle and equipment fueling, unless the fueling is performed over an impermeable surface in a dedicated fueling area. Nozzles used in vehicle and equipment fueling should be equipped with an automatic shutoff to control drips. Fueling operations should not be left unattended. Federal, state, and local requirements should be observed for any stationary above ground storage tanks. Debris Collection: To prevent clogging of the storm drainage system, litter and debris removal from drainage grates, trash, rocks, and ditch lines should be a priority. Construction debris and waste should be removed from the site biweekly or more frequently as needed. Construction material visible to the public should be stored in an orderly manner. Stormwater runoff should be prevented from contacting stored solid waste.

Concrete Washout: Perform washout of concrete trucks offsite or in designated areas only. Sign stating "Concrete Washout" must be on-site indicating the location of the washout. Do not washout concrete trucks into storm drains, open ditches, streets, or streams. Do not allow excess concrete to be dumped on site, except in designated areas. For onsite washout: locate washout area at least fifty (50) feet from storm drains, open ditches, or bodies of water; do not allow runoff from this area by constructing a

temporary berm or holding area large enough for liquid and solid waste; wash out wastes into the designated area where the concrete can set and be broken up and disposed of properly.

The CONTRACTOR shall also provide an offsite pollution prevention plan that addresses all of the following areas outside of right-of-ways:

1. Utility relocation areas.
2. Material hauling and transportation routes/roads.
3. Borrow pits.
4. Temporary staging and material stockpile areas.
5. Temporary disposal areas for waste materials.

The offsite pollution prevention plan shall include all applicable maps, drawings, and necessary erosion control measures that will be used. The offsite pollution prevention plan shall be submitted to the OWNER and ENGINEER within 48 hours of receiving notice of intent to award.

The OWNER and/or ENGINEER shall forward any written documentation regarding stormwater pollution prevention and the project site to the CONTRACTOR within 48 hours of receiving notice. The 48 hours does include any time on Saturday, Sunday, or Federal Holidays.

In instance of an agency with jurisdiction issuing fines or other punitive damages to the OWNER resulting from Rule 5 deficiencies, OWNER shall deduct punitive damage amount from payment to CONTRACTOR.

Any delays to the CONTRACTOR resulting from Rule 5 deficiencies will not be considered by the OWNER for a contract time extension.

Typical Construction Sequence

1. Schedule Pre-Construction meeting with City of Noblesville.
2. Post requires permits and documentation on site.
3. Install construction entrance, perimeter protection, fueling station, and water quality measure where runoff leaves the site.
4. Clear easement.
5. Remove topsoil. Disturbed areas shall be kept to a minimum.
6. Grade to subgrade and/or finish grade elevations.
7. Install underdrain and related construction pollution prevention items. (i.e. - inlet protection)
8. Construct trail. Equipment and material clean up shall be per the SWPPP details and notes.
9. Fine grade and complete final vegetation as called per plan. (Mulched Seeding or Sod)
10. Temporary SWPPP measures shall remain in place until all areas are stabilized. (i.e. - inlet protection and silt fence).
11. Submit Notice of Termination to IDEM.

No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items in the Contract.

SP 22 Notification of Affected Residents

CONTRACTOR shall provide the ENGINEER with a minimum of ten (10) days notification, regarding his/her intent to start construction. City may distribute letters and/or make a press release notifying affected citizens and/or businesses of the CONTRACTOR's intent to start construction.

Notification of Affected Residents will not be paid for directly but shall be included in the cost of other items in the Contract.

SP 23 Construction Schedule

It is the responsibility of the CONTRACTOR, upon notification of acceptance of Bid, to prepare a construction schedule for establishing the controlling work activity. The schedule shall be in the form of

a bar graph. The CONTRACTOR should provide the construction schedule at or before the time of the Preconstruction Conference.

The CONTRACTOR shall not work between the hours of 7:00 pm (local time) and 7:00 am (local time), unless noted otherwise. Work on Saturday is acceptable if 48 hours of advance notice is given.

All work described in this Contract shall be completed between Monday and Friday. Work on observed Federal holidays and adjacent weekends of Federal holidays are strictly prohibited. No work shall be completed outside of these timelines, without the prior written approval of the ENGINEER.

If, in the opinion of the ENGINEER, the CONTRACTOR falls behind the progress schedule, the CONTRACTOR shall take such steps as may be necessary to improve his progress which may require him to increase the number of shifts and/or overtime operations, days of work, and/or the amount of construction planned, and to submit for approval such supplementary schedule or schedules as necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the OWNER.

SP 24 Saw-Cutting of Pavement

In locations where the new pavement abuts the existing pavement edge, the existing pavement shall be saw cut with an approved concrete saw to assure a uniform, neat and flush edge with new pavement. The saw cut shall be thoroughly cleaned its entire length.

Saw cutting is required for curb removal and/or pavement removal by excavation. Saw cutting is not required when a milling machine is used to remove curbing and/or pavement unless the resulting milled edge is not uniform, neat and flush edge.

The saw cut work will not be paid for directly, but the cost thereof shall be included in the cost of other items in the Contract.

SP 25 Material Delivery Tickets

CONTRACTOR, at his/her expense, shall furnish ENGINEER material delivery tickets for bituminous mixture, concrete, and aggregate which is specified for measurement by weight and/or volume. The tickets shall be prepared at the weighing site by the CONTRACTOR or his representative and shall contain the following information: Ticket Serial Number, Date, Source of Supply, Material Designation (size and type), Truck Number, Time Weighed, Gross Weight (DR entered here if scale is direct reading type), Tare, and Net Weight. The original or duplicate tickets shall be provided to the OWNER.

Material delivery tickets shall be grouped by material, then date when submitted to the ENGINEER.

Material delivery ticket collection will not be paid for directly but shall be included in the cost of other items in the Contract.

SP 26 Progress Estimate Billing

Progress estimate billings shall be submitted only once a month and according to schedule submitted to CONTRACTOR on day of Pre-Construction meeting. ENGINEER will provide an electronic Application for Progress Pay Estimate and Progress Pay Estimate templates, in MS Excel, to CONTRACTOR on day of Pre-Construction meeting. Application for Progress Pay Estimate and Progress Pay Estimate shall be submitted to ENGINEER in electronic format for review, upon acceptance, a signed paper copy shall be delivered to ENGINEER for actual submittal of claim.

A hardcopy of the Application for Progress Pay Estimate and Progress Pay Estimate forms are included in the Appendix D.

SP 27 Pay Items

CONTRACTOR to furnish and install all materials described in the Special Provisions, Project Plans, and other Contract Documents. The quantities shown in the Itemized Proposal are believed to be sufficient to complete the specified work; however, they are approximate and are shown for purpose of comparing bids. Payment to the CONTRACTOR will be made only for those quantities of work actually completed, except noted otherwise, and accepted in accordance with the specifications.

Pay Items denoted in the Itemized Proposal as “(Undistributed)” are for pay items which have not been specifically identified in the construction plans, but may be encountered on the project as incidental construction items.

All pay items are as defined in the 2010 INDOT Standard Specifications, except as noted below:

A. Maintaining Traffic

Payment for Maintaining Traffic shall be made at the Contract lump sum price submitted. The work shall include furnishing (or providing) barricades to restrict pedestrian/bicycle access to the trail construction.

B. Clearing Easement

Clearing Easement shall be the trimming, cutting, clearing, grubbing, removal and proper disposal of all plant materials within the easement as shown on plans and shall be paid as a lump sum contract price submitted.

C. Excavation, Common

Excavation, Common shall be in accordance of section 203 of INDOT Standards Specifications with the addition of the provisions stated below.

Excavation, Common shall also include the removal and disposal of all the following materials: pipe, curbs, walk, conduits, pavement, cables, concrete, asphalt and rocks with a volume less than 0.5 cubic yard, peat, or waterways excavation. There will be no field measurement and item will be paid per the plan quantity.

D. Stone Base #53

Stone Base #53 to be placed to match width the proposed asphalt trail.

E. HMA Surface, Type A, 12.5 mm

HMA Pavement shall be in accordance of section 402 and QA/QC HMA shall be per section 401 of INDOT Standards Specifications with the addition of the provisions stated below.

HMA may be produced as warm-mix asphalt, WMA, by using a water injection foaming device approved by INDOT for Type A, B, or C mixtures. The DMF shall list the minimum plant discharge temperature for HMA and WMA as applicable to the mixture. Recycled material requirements are to match Section 402.

The unit price shall include furnishing, delivery and placement of bituminous pavement mixture, providing weigh tickets, paving and other miscellaneous items needed to complete the work.

The total asphalt pavement thickness shall be constructed to reasonably close conformance as specified in Contract Documents. The thickness of each mixture shall be controlled by monitoring the rate of application of said asphalt mixture to insure placement of the mixture at the weight per square yard as designated by the plans.

F. Pipe, Underdrain, 6”, Double Wall

Pipe, Underdrain shall be in accordance of section 715 and 718 of INDOT Standards Specifications with the addition of the provisions stated below.

Fittings (elbows), no greater then 22.5 degrees, shall be used if pipe is to be ran through a radius and will be paid for by two additional feet of said pipe diameter for each fitting. Coring into existing storm sewer structure located on the eastern most portion of project (southeast corner lot 86 as shown on sheet C102) will not be paid for directly but must be included in the unit price of this item. Contractor shall locate and verify the invert elevation of said storm sewer structure to verify positive drainage for the underdrain.

G. Restoration and Seeding

Payment shall be made at the Square Yard unit price submitted. The work shall include all top soil, grading, fine grading, surface scarification, INDOT Type U seed mix, mulch, water, fertilizer, mobilization/demobilizations, and other miscellaneous items needed to establish permanent vegetation (grass). Restoration includes areas of disturbance for construction entrance/access from Hazel Dell Road. There will be no field measurement and item will be paid per the plan quantity.

H. Landscaping, (Sheet L101)

Installation of planting to conform to INDOT Section 622 and special planting notes per sheet L101. Lump sum pay item to include all labor, material and equipment to complete all items depicted on sheet L101.

SP 28 Additional Right-of-Way and Easements

All right-of-way and easement shown required for this project has been secured.

SP 29 (Reserved)

SP 30 Irrigation Systems and Pet Containment Systems

During removal of curb, pavement, and/or drive approaches, damage may be done to existing irrigation and/or underground pet containment systems. If a said system is damaged, or a portion of said system needs to be removed or relocated, the CONTRACTOR shall relocate or repair system to working order. Direct payment for relocation/repair to said systems will not be made directly, but shall be included in the cost of other items in the Contract.

SP 31 Pre-Designation of Project Supervision and Subcontractors

The City of Noblesville reserves the right to reject any subcontractor based on work load in the project area and current or past performance. The City of Noblesville also reserves the right to reject the use of any subcontractor, foreman, or superintendent proposed for this project based on current or past performance. Any prime or subcontractor as part of this contractor performing in amount exceeding 10% of the contract value shall declare the project superintendent to be assigned to the project after the low bidder has been identified prior to award. The City reserves the right to approve or disprove of personnel designated for this project prior to award of the project. Any contractor removing or re-assigning pre-designated and pre-approved personnel for this project agrees to pay a penalty of \$10,000 for removing said designated personnel.

SP 32 Earthwork within Project Limits

The CONTRACTOR shall use all excavated materials from sources within the project limits as fill material provided that the excavated materials are suitable for fill in accordance with the Standards Specifications.

The CONTRACTOR may stockpile excavated materials suitable for embankment fill at locations within the project limits and as approved by the ENGINEER. The CONTRACTOR will not be additionally compensated for stockpiling excavated materials or for removing stockpiled materials as this work shall be included in the cost of other items.

The CONTRACTOR will not be paid directly for hauling and placing excavated materials that was generated within the project's excavation/grading limits. The CONTRACTOR will not be paid directly for hauling unsuitable or excess excavated materials off site which was generated within the project limits.

SP 33 Field Tiles

CONTRACTOR shall remove or crush all field tiles within the construction limits of the project. Any field tiles that are found to be connecting into the abandoned or removed tile shall be connected to the nearest storm sewer connection point. CONTRACTOR shall notify the ENGINEER of all encountered field tiles prior to removing/crushing and/or connecting to the new storm sewer system. CONTRACTOR shall take photos of all crushed tile and tile connections, as well as mark the tile locations on the construction drawings. All field tile connections shall be identified on the As-Built drawings.

CONTRACTOR will be compensated for the following items for correcting all encountered field tiles: 'Excavation, Common', "Pipe, PVC SDR-26, 8", Field Tile Restore," and "Structure Backfill (if trench encroaches 5 feet of pavement)"

SP 34 Top of Casting Elevations

Top of Casting Elevations, if provided, in contract documents are for general reference and not absolute values. The CONTRACTOR shall adjust each casting and/or structure to match the adjacent grade without creating a bowl or mound. Adjusting of structures shall comply with the Noblesville Standards. There is not direct payment for this work, but shall be included in the cost of other items unless a specific pay item is called out in the Itemized Proposal.

SP 35 Maintaining of Right-Of-Way and Easement

CONTRACTOR shall maintain the Right-Of-Way and/or easements in which the contractor is working until the project has been accepted and the contract closed out. This work includes but is not limited to mowing of existing grassed area, mowing of new sod, mowing of newly established seeded area, weeding of landscaping in public R/W. This will not be paid for directly, but included in the cost of other items.

SP 36 Vacuum Testing of Existing Manhole

Existing sanitary sewer manhole, which is being adjusted, shall be vacuumed tested prior to any construction to determine a baseline of the existing conditions. Existing manhole shall be vacuum tested with new manhole structures and shall meet or exceed the conditions prior to construction. If test fails, manhole shall be repaired and retested until manhole meets the pre-construction vacuum test result. There is no direct payment for this work, but should be included in the cost of the other items in this contract.

SP 37 Construction Limits

Contractor shall work within the construction limits shown on the plans. If construction limits are not specifically called out in the plans, contractor shall confine operations within the rights-of-way, sewer/drainage easements, or temporary rights-of-way shown on the plans. Work outside the construction limits is not permitted per this contract.

SP 38 Management of Subcontractors

The City of Noblesville reserves the right to reject a CONTRACTOR based on current and/or past performance of managing work and schedule of subcontractors.

SP 39 Benchmark and Section Corners

Included within the scope of this project may be the installation of benchmarks and section corners. This work shall be coordinated with the Hamilton County Surveyor or his authorized representative and shall be directed in accordance with INDOT Standard Specifications Section 615. Benchmarks and section corners shall be provided by the Hamilton County Surveyor's Office. The CONTRACTOR shall install the benchmark on a benchmark post, if required.

The CONTRACTOR shall provide a letter stating the USGS elevation that is to be stamped on the benchmark to the Surveyor's Office. A licensed Indiana professional surveyor shall certify this letter. The Surveyor's Office shall be notified a minimum of seven calendar days prior to any work related to this pay item commencing.

The cost of all related or incidental items for this work shall be included in the cost of the pay item, Benchmark Post or section corner marker. Any re-establishment of locations or monumentation that is necessary due to the CONTRACTOR not adhering to the directions of the Surveyor's Office will be completed by the CONTRACTOR to the satisfaction of the Hamilton County Surveyor without additional compensation.

SP 40 Project Materials

All material's composition and type shall comply with the Noblesville (Construction) Standards. All storm sewer pipe equal to or greater than 12" shall be reinforced concrete pipe. All underdrain pipes shall be double-walled smooth bore.

SP 41 Site Access

The project access will be strictly from the east side of the project directly from Hazel Dell Road. Coordination with the Engineer on the appropriate methods for protection of the existing curbs and trail is required. Temporary lane closures on southbound Hazel Dell Road will be considered.

The following pay items have considerations with additional quantities to account for potential restoration because of accessing the site from Hazel Dell Road.

- Pay Item 9 (Stone Base #53) has an additional 40 TONS of material for approximately 100 feet of existing trail repair.
- Pay Item 10 (HMA Surface) has an additional 20 TONS of material for approximately 100 feet of existing trail repair
- Pay Item 14 (Restoration and Seeding) had an additional 60 SYS. No field measurement.

The CONTRACTOR shall be responsible for any curb repair associated with the site access.

SP 42 Trail Cross Section Detail

The Trail Cross Section has been modified from the Detail 1 on Sheet C101. Refer to Appendix E for the revised Trail Cross Section Detail to be used for this project.

[END OF SECTION]

APPENDIX
to
WEST HAVEN INTER URBAN TRAIL PROJECT
EN-162-02

APPENDIX A – Change Order Form
APPENDIX B – Warranty Letter Form
APPENDIX C – Waiver of Lien Form
APPENDIX D – Pay Estimate Application Form
APPENDIX E - Trail Cross Section Detail

APPENDIX A – Change Order Form

Change Order



Change Order No: _____

Project: WEST HAVEN INTER URBAN TRAIL PROJECT
Contract Number: EN-162-02

Description / Justification

Change order is ... balance the contract quantities from the estimated quantities to the final actual constructed quantities to close out the contract and release retainage to the contractor.

Change to Contract Price:

Original Contract Price	\$	-
Net Changes from Previous Change Orders	\$	-
Contract Price prior to this Change Order	\$	-
Net Change of this Change Order	\$	-
Contract Price with all Change orders	\$	-

Change to Contract Time

None

Requested By:

Contractor
Contractor Contact

Recommended By:

Noblesville Department of Engineering or RPR Firm
Project Manager / RPR

Date

Date

Approved By:

City of Noblesville Board of Public Works & Safety

John Ditslear, Mayor

Lawrence Stork, Member

Jack Martin, Member

Attest:

Clerk-Treasurer

Janet S. Jaros

Date

APPENDIX B – Warranty Letter Form

(on Contractor's Company letterhead)

CONTRACTOR GUARANTEE

CONTRACTOR guarantees the workmanship and materials, including all subcontractors and suppliers, used in the performance of the construction of **PROJECT**, located in Noblesville, Indiana, Hamilton County for the period of one full year, commencing **DATE (acceptance date by Board of Public Works)** and remaining in full force and effect until **DATE (one year from acceptance date)**. We further guarantee that all labor and materials furnished are in accordance with the requirements of the project drawings and specifications, and should any defects in our work develop during the guarantee period due to improper materials, workmanship, or arrangements, these defects will promptly be corrected without expense to the OWNER.

CONTRACTOR

NAME – TITLE

APPENDIX C – Waiver of Lien Form

AFFIDAVIT AND WAIVER OF LIEN

FINAL Payment to Follow

State of Indiana, County of _____ SS

_____ being duly sworn states that he is the _____ of
(Name of Officer) (Title)

_____ having contracted with _____ to furnish certain
(Subcontractor/Supplier) (Contractor)

materials and/or labor as follows _____
(Description)

for the project known as _____, CITY OF NOBLESVILLE, Indiana

located at _____ and owned by CITY OF NOBLESVILLE
(Owner)

and does hereby further state on behalf of the aforementioned subcontractor/supplier:

FINAL WAIVER that the final balance due from the contractor is the sum of

_____ Dollars (\$ _____)

receipt of which is hereby acknowledged or

() the payment of which has been promised as the sole consideration for this Affidavit and Final Waiver of Lien, which shall become effective upon receipt of such payment.

THEREFORE, the undersigned waives and releases unto the Owner of said premises, any and all lien or claim whatsoever on the above-described property and improvements thereon on account of LABOR or material or both, furnished by the undersigned thereto, subject to limitations or conditions expressed herein, if any; and further certifies that no other party has any claim or right to a lien on account of any work performed or material furnished to the undersigned for said project, and within the scope of this affidavit and waiver.

_____ By _____ Title _____
(Firm) (Authorized Representative)

WITNESS MY HAND AND NOTARIAL SEAL this _____ of _____, 2006.

(Notary Public)

My Commission Expires _____ Printed _____

Residing in _____ County

APPENDIX D – Pay Estimate Application Form

Progress Pay Estimate

PROJECT: **WEST HAVEN INTER URBAN TRAIL PROJECT**
 Contract No: **EN-162-02**

DATE: _____
 PROGRESS ESTIMATE NO.: _____
 FROM: _____
 TO: _____

City Use Only	
Contract ID	EN-162-02
Dept	Engineering
Contractor	?? Contractor ??
Inv #	-
Inv Amt	\$ -
Inv Date	1/0/1900
Inv Desc	EN-162-02 CON -
Enter Date	
Enter By	
Fund	
Paid Date	
Approval	

CONTRACTOR:
 Company: ?? Contractor ??
 Address:
 City, State Zip:
 Ph#:
 Contact:
 Title:

OWNER REPRESENTATIVE
 Brian D.Gray, P.E.

PROJECT MANAGER
 City of Noblesville
 16 S. 10th Street
 Noblesville, IN 46060
 317-77-6330

Item No.	Description	Total Estimated Quantity	Unit	Unit Price	Quantity Previous Estimates	Quantity This Estimate	Amount This Estimate	Quantity To Date	Amount To Date
BASE BID									
1							\$ -	-	\$ -
2							\$ -	-	\$ -
3							\$ -	-	\$ -
4							\$ -	-	\$ -
5							\$ -	-	\$ -
6							\$ -	-	\$ -
7							\$ -	-	\$ -
8							\$ -	-	\$ -
9							\$ -	-	\$ -
10							\$ -	-	\$ -
11							\$ -	-	\$ -
12							\$ -	-	\$ -
13							\$ -	-	\$ -
14							\$ -	-	\$ -
15							\$ -	-	\$ -
16							\$ -	-	\$ -
17							\$ -	-	\$ -
18							\$ -	-	\$ -
19							\$ -	-	\$ -
20							\$ -	-	\$ -
21							\$ -	-	\$ -
22							\$ -	-	\$ -
23							\$ -	-	\$ -
24							\$ -	-	\$ -
25							\$ -	-	\$ -
26							\$ -	-	\$ -
27							\$ -	-	\$ -
28							\$ -	-	\$ -
29							\$ -	-	\$ -
30							\$ -	-	\$ -
							THIS ESTIMATE	TO DATE	

Item No.	Description	Total Estimated Quantity	Unit	Unit Price	Quantity Previous Estimates	Quantity This Estimate	Amount This Estimate	Quantity To Date	Amount To Date
----------	-------------	--------------------------	------	------------	-----------------------------	------------------------	----------------------	------------------	----------------

TOTAL:		\$ 0.00	TOTAL:	\$ 0.00
---------------	--	----------------	---------------	----------------

DEDUCTIONS:	\$ -	DEDUCTIONS:	\$ -
--------------------	------	--------------------	------

AMOUNT DUE:	\$ -	NET DUE:	\$ -
--------------------	------	-----------------	------

		% Complete	#DIV/0!
--	--	-------------------	----------------

Contract Price		
Date	Description	Price
4/27/2010	Original Contract	
	TOTAL	\$ -

DEDUCTIONS			
	PREVIOUS ESTIMATES	THIS ESTIMATE	TO DATE

Retainage	\$ -	\$ -	\$ -
-----------	------	------	------

Approval of Progress Estimate

	<u>Contractor</u>	<u>Owner Representative</u>	<u>Project Manager</u>
Signature			
Printed			
Title			
Date			

APPENDIX E – Trail Cross Section Detail

