

## CONSTRUCTION AGREEMENT

THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, ("Owner") hereby contracts with **Bradanna, Inc.** ("Contractor") of **Naples, Florida**, a construction corporation, to perform all work ("Work") in connection with **Renovation & Additions to Motor Vehicle service Bays 7 & 8** ("Project"), as said Work is set forth in the Plans and Specifications prepared by **Kris Jain and Associates, Inc. the Engineer of Record** ("Design Professional") and other Contract Documents hereafter specified.

Owner and Contractor, for the consideration herein set forth, agree as follows:

### Section 1. Contract Documents.

A. The Contract Documents consist of this Agreement, the Exhibits described in Section 6 hereof, the Legal Advertisement, the Instructions to Bidders, the Bid Schedule and any duly executed and issued addenda, Change Orders, Work Directive Changes, Field Orders and amendments relating thereto. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents including the Agreement sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.

B. Owner shall furnish to the Contractor up to five (5) sets of the Contract Documents as are reasonably necessary for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

### Section 2. Scope of Work.

Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the Work required by the Contract Documents.

### Section 3. Contract Amount.

In consideration of the faithful performance by Contractor of the covenants in this Agreement to the full satisfaction and acceptance of Owner, Owner agrees to pay, or cause to be paid, to Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement: **Three Hundred Forty Two Thousand, Three Hundred Eighty Two Dollars and No Cents.**

### Section 4. Bonds.

A. Contractor shall provide Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of 100% of the Contract Amount, the costs of which to be paid by Contractor. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038. Should the contract amount be less than \$500,000, the requirements of Section 287.0935, F.S. shall govern the rating and classification of the surety.

B. If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the Owner's approval.

#### **Section 5. Contract Time and Liquidated Damages.**

A. Time is of the essence in the performance of the Work under this Agreement. The "Commencement Date" shall be established in the Notice to Proceed to be issued by the Owner. Contractor shall commence the Work within five (5) calendar days after that date or after all necessary permits are issued, whichever date is later. No Work shall be performed at the Project site prior to the Commencement Date. Any Work performed by Contractor prior to the Commencement Date shall be at the sole risk of Contractor. The Work shall be **substantially completed within 180 consecutive calendar days from the Commencement Date**. The date of substantial completion of the Work (or designated portions thereof) is the date certified by the Design Professional when construction is sufficiently complete, in accordance with the Contract Documents, so Owner can occupy or utilize the Work (or designated portions thereof) for the use for which it is intended. The work shall reach **final completion and be ready for final acceptance by Owner within 210 consecutive calendar days from the Commencement Date** (herein "Contract Time").

B. Owner and Contractor recognize that, since time is of the essence for this Agreement, Owner will suffer financial loss if the Work is not substantially completed within the time specified above, as said time may be adjusted as provided for herein. **Should Contractor fail to substantially complete the Work within the time period noted above, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, \$250.00 for each calendar day thereafter until substantial completion is achieved. Further, Owner shall be entitled to assess, as liquidated damages, but not as a**

**penalty, \$150.00 for each calendar day thereafter until the final completion is achieved.** The Project shall be deemed to be substantially completed on the date the Design Professional issues a Certificate of Substantial Completion pursuant to the terms hereof. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the Owner's actual damages at the time of contracting if Contractor fails to substantially complete the Work in a timely manner.

C. When any period of time is referenced by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

#### **Section 6. Exhibits Incorporated.**

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

- Exhibit A: General Terms and Conditions
- Exhibit B: Form of Performance and Payment Bonds
- Exhibit C: Insurance Requirements
- Exhibit D: Form of Release and Affidavit
- Exhibit E: Form of Contractor Application for Payment
- Exhibit F: Form of Change Order
- Exhibit G: Supplemental Terms and Conditions
- Exhibit H: Technical Specifications

**Section 7. Notices.**

A. All notices required or made pursuant to this Agreement by the Contractor to the Owner shall be in writing and delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

City of Naples  
735 8<sup>th</sup> Street South  
Naples, FL 34102  
ATTN: Robert E. Lee, City Manager

B. All notices required or made pursuant to this Agreement by Owner to Contractor shall be made in writing and shall be delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Bradanna, Inc.  
2805 Horseshoe Drive South, Unit 12  
Naples, FL 34104  
ATTN: Brad Steinmann, Vice President

C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

**Section 8. Modification.**

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**Section 9. Successors and Assigns.**

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

**Section 10. Governing Law.**

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida.

**Section 11. No Waiver.**

The failure of the Owner to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

**Section 12. Entire Agreement.**

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

**Section 13. Severability.**

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

**CONTRACTOR:**  
**BRADANNA, INC.**

**ATTEST:**

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

**Printed Name:**\_\_\_\_\_

\_\_\_\_\_  
**Corporate Secretary/Witness**

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

[Corporate Seal]

\_\_\_\_\_  
**2nd Witness**  
(if not incorporated)

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

**OWNER:**  
**CITY OF NAPLES, FLORIDA**

**ATTEST:**

**By:** \_\_\_\_\_  
Tara A. Norman, City Clerk

**By:** \_\_\_\_\_  
Dr. Robert E. Lee, City Manager

Approved As To Form  
And Legality

**By:** \_\_\_\_\_  
Robert D. Pritt, City Attorney

**EXHIBIT A**  
**GENERAL TERMS AND CONDITIONS**

1. INTENT OF CONTRACT DOCUMENTS.

1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the Work is performed, except as may be otherwise specifically stated herein.

1.2. If before or during the performance of the Work Contractor discovers a conflict, error or discrepancy in the Contract Documents, Contractor immediately shall report same to Design Professional in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the Design Professional. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.

1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications or other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the Design Professional. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

2. INVESTIGATION AND UTILITIES.

2.1. Contractor shall have the sole responsibility of

satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the project area as a whole; topography and ground surface conditions; nature and quantity of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Sub-Section 2.2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

### 3. SCHEDULE.

3.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to Owner and Design Professional, for their review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule shall relate to all Work required by the Contract Documents, and shall utilize the Critical Path method of scheduling and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work.

3.2. The Progress Schedule shall be updated monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the Owner's and Design Professional's review and approval. Contractor shall submit the updates to the Progress Schedule with its monthly Applications for Payment noted below. The Owner's and Design Professional's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the Owner's obligation to pay Contractor.

### 4. PROGRESS PAYMENTS.

4.1. Prior to submitting its first monthly Application for Payment, Contractor shall submit to Owner and the Design Professional, for their review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the Owner and Design Professional, this schedule of values shall be used as the basis for the Contractor's monthly Applications for Payment. This schedule shall be updated and submitted each month to the Design Professional along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.

4.2. Prior to submitting its first monthly Application for Payment, Contractor shall submit to Owner and the Design Professional a complete list of all its proposed subcontractors and materialmen, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after the Commencement Date.

4.3. If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the Owner in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that the Owner has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which shall be subject to the Owner's satisfaction.

4.4. Contractor shall submit six (6) copies of its monthly Application for Payment to the Design Professional on or before the 25th day of each month unless otherwise stipulated by the Owner for work performed during the previous month. Invoices received after the 25th day of each month shall be considered for payment as part of the next month's application. Within ten (10) calendar days after receipt of each Application for Payment, the Design Professional shall either: (1) indicate his approval of the requested payment; (2) indicate his approval of only a portion of the requested payment, stating in writing his reasons therefor; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment.

In the event of a total denial and return of the Application for Payment by the Design Professional, the Contractor may make the necessary corrections and resubmit the Application for Payment. The Owner shall, within thirty (30) calendar days after Owner approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the Owner be obligated to pay any amount greater than that portion of the Application for Payment approved by the Design Professional.



4.5. Owner shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the Design Professional for payment, whichever is less. Such sum shall be accumulated and not released to Contractor until final payment is due unless otherwise agreed to by the Owner.

4.6. Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.

4.7. Each Application for Payment shall be accompanied by a Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full. The Owner shall not be required to make payment until and unless these affidavits are furnished by Contractor.

4.8. Contractor agrees and understands that funding limitations exist and that the expenditure of funds must be spread over the duration of the Project at regular intervals based on the Contract Amount and Progress Schedule. Accordingly, prior to submitting its first monthly Application for Payment, Contractor shall prepare and submit for Owner's and Design Professional's review and approval, a detailed Project Funding Schedule, which shall be updated as necessary and approved by Owner to reflect approved adjustments to the Contract Amount and Contract Time. No voluntary acceleration or early completion of the Work shall modify the time of payments to Contractor as set forth in the approved Project Funding Schedule.

## 5. PAYMENTS WITHHELD.

5.1. The Design Professional or Owner may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The Design Professional or Owner may nullify the whole or any part of any approval for payment previously issued and Owner may withhold any payments otherwise due Contractor under this Agreement or any other agreement between Owner and Contractor, to such extent as may be necessary in the Owner's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents.

5.2. If any conditions described in 5.1. are not remedied or removed, Owner may, after three (3) days written notice, rectify

the same at Contractor's expense. Owner also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to Owner, whether relating to or arising out of this Agreement or any other agreement between Contractor and Owner.

## 6. FINAL PAYMENT.

6.1. Owner shall make final payment to Contractor within thirty (30) calendar days after the Work is finally inspected and accepted by both Owner and the Design Professional in accordance with Section 20.1 herein, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished Owner with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit D, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents and the Owner.

6.2. Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against Owner arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by Owner shall be deemed to be a waiver of Owner's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the Design Professional or Owner at the time of final inspection.

## 7. SUBMITTALS AND SUBSTITUTIONS.

7.1. Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.

7.2. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by Owner if sufficient information is submitted by Contractor to allow the Owner to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by Owner from anyone other than Contractor and all such requests must be submitted by Contractor to Design Professional within thirty (30) calendar days after Notice of Award is received

by Contractor.

7.3. If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the Design Professional for acceptance thereof, certifying that the proposed substitute shall adequately perform the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use 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 the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the Design Professional in evaluating the proposed substitute. The Design Professional may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

7.4. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Design Professional, if Contractor submits sufficient information to allow the Design Professional to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the Design Professional shall be the same as those provided herein for substitute materials and equipment.

7.5. The Design Professional shall be allowed a reasonable time within which to evaluate each proposed substitute. The Design Professional shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the Design Professional's and the Owner's prior written acceptance which shall be evidenced by either a Change Order or an approved Shop Drawing. The Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute. The Design Professional will record time required by the Design Professional and the Design Professional's consultants in evaluating substitutions proposed by Contractor and making changes in the Contract Documents occasioned thereby. Whether or not the Owner accepts a proposed substitute, Contractor shall reimburse Owner for the charges of the Design Professional and the Design

Professional's consultants for evaluating each proposed substitute.

8. DAILY REPORTS, AS-BUILTS AND MEETINGS.

8.1. Unless waived in writing by Owner, Contractor shall complete and submit to Design Professional on a weekly basis a daily log of the Contractor's work for the preceding week in a format approved by the Design Professional and Owner. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:

- 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
- 8.1.2. Soil conditions which adversely affect the Work;
- 8.1.3. The hours of operation by Contractor's and subcontractor's personnel;
- 8.1.4. The number of Contractor's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
- 8.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
- 8.1.6. Description of Work being performed at the Project site;
- 8.1.7. Any unusual or special occurrences at the Project site;
- 8.1.8. Materials received at the Project site;
- 8.1.9. A list of all visitors to the Project
- 8.1.10. Any problems that might impact either the cost or quality of the Work or the time of performance.

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to Owner or Design Professional pursuant to the Contract Documents.

8.2. Contractor shall maintain in a safe place at the Project site one record copy of the Contract Documents, including, but not limited to, all drawings, specifications, addenda,

amendments, Change Orders, Work Directive Changes and Field Orders, as well as all written interpretations and clarifications issued by the Design Professional, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color.

The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to Design Professional for reference. Upon completion of the Work and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to Design Professional by Contractor for Owner.

8.3. Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. Owner, or any duly authorized agents or representatives of Owner, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

## 9. CONTRACT TIME AND TIME EXTENSIONS.

9.1. Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission by Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents, and the coordination of Owner's suppliers and contractors as set forth in Paragraph 12.2. herein.

9.2. Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes or lockouts, Contractor

shall notify the Owner in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Contractor may have had to request a time extension.

9.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which Owner may be responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from Owner. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against Owner will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

## 10. CHANGES IN THE WORK.

10.1. Owner shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of Owner, and Owner shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of Owner is authorized to direct any extra or changed work orally.

10.2. A Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and Owner concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as Owner and Contractor shall mutually agree.

10.3. If Owner and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by Owner in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by Owner. If Contractor disagrees with the Owner's adjustment determination, Contractor must make a claim pursuant to Section 11 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

10.4. In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be

limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above. Contractor's and Sub-Contractor's bond costs associated with any change order shall be included in the overhead and profit expenses and shall not be paid as a separate line item.

10.5. Owner shall have the right to conduct an audit of Contractor's books and records to verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.

10.6. The Design Professional shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be effected by Field Order or by other written order. Such changes shall be binding on the Contractor.

## 11. CLAIMS AND DISPUTES.

11.1. A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between Owner and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.

11.2. Claims by the Contractor shall be made in writing to the Owner and Design Professional within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the Owner and Design Professional within fifteen (15) calendar days after the occurrence of the event, unless the Owner grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 10.4.

11.3. The Contractor shall proceed diligently with its performance as directed by the Owner, regardless of any pending

Claim, action, suit or administrative proceeding, unless otherwise agreed to by the Owner in writing. Owner shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

## 12. OTHER WORK.

12.1. Owner may perform other work related to the Project at the site by Owner's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, written notice thereof will be given to Contractor prior to starting any such other work. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact to Owner and Design Professional within forty-eight (48) hours of being notified of the other work. If the Contractor fails to send the above required forty-eight (48) hour notice, the Contractor will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

12.2. Contractor shall afford each utility owner and other contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional 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 work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and 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 the Design Professional 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.

12.3. If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or Owner), Contractor shall inspect and promptly report to Design Professional in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

## 13. INDEMNIFICATION AND INSURANCE.

13.1. Contractor agrees to indemnify and hold harmless the



City from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employer or utilized by the Contractor in the performance of the Contract

13.2. Contractor shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. Further, the Contractor shall at all times comply with all of the terms, conditions, requirements and obligations set forth under Exhibit C.

#### 14. COMPLIANCE WITH LAWS.

14.1. Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety (including, but not limited to, the Trench Safety Act, Chapter 553, Florida Statutes). If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify Owner and Design Professional in writing.

#### 15. CLEANUP AND PROTECTIONS.

15.1. Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project site clean and ready for occupancy by Owner.

15.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

#### 16. ASSIGNMENT.

16.1. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of Owner. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward Owner.

17. PERMITS, LICENSES AND TAXES.

17.1 Pursuant to Section 218.80, F.S., Owner will pay for all City of Naples permits and fees, including license fees, permit fees, impact fees or inspection fees applicable to the work through an internal budget transfer(s). Contractor is not responsible for paying for permits issued by the City of Naples, but is responsible for acquiring all permits. Owner may require the Contractor to deliver internal budget transfer documents to applicable City of Naples' agencies when the Contractor is acquiring permits.

17.2 All permits, fees and licenses necessary for the prosecution of the Work which are not issued by the City of Naples shall be acquired and paid for by the Contractor.

17.3. Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

18. TERMINATION FOR DEFAULT.

18.1. Contractor shall be considered in material default of the Agreement and such default shall be considered cause for Owner to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the Owner or the Design Professional or as provided for in the approved Progress Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work; or (5) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; or (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) materially breaches any other provision of the Contract Documents.

18.2. Owner shall notify Contractor in writing of Contractor's default(s). If Owner determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then Owner, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's

Work by whatever means, method or agency which Owner, in its sole discretion, may choose.

18.3. If Owner deems any of the foregoing remedies necessary, Contractor agrees that it shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including Design Professional and attorneys' fees) or damages incurred by Owner incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to Owner on demand the full amount of such excess, including costs of collection, attorneys' fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the Owner to complete the Work, such excess shall be paid to the Contractor. The amount to be paid to the Contractor or Owner, as the case may be, shall be approved by the Design Professional, upon application, and this obligation for payment shall survive termination of the Agreement.

18.4. The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by Owner in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefor or re-letting the Work, and in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.

18.5. If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that Owner is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against Owner shall be the same as and limited to those afforded Contractor under Section 19 below.

#### 19. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION.

19.1. Owner shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against Owner shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against Owner, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.

19.2. Owner shall have the right to suspend all or any portions of the Work upon giving Contractor not less than two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds six (6) months, the Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

## 20. COMPLETION.

20.1. When the entire Work (or any portion thereof designated in writing by Owner) is ready for its intended use, Contractor shall notify Owner and Design Professional in writing that the entire Work (or such designated portion) is substantially complete and request that Design Professional issue a Certificate of Completion (substantial or final Certificate of Completion). Within a reasonable time thereafter, Owner, Contractor and Design Professional shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If Owner and Design Professional do not consider the Work (or designated portion) substantially complete, Design Professional shall notify Contractor in writing giving the reasons therefor. If Owner and Design Professional consider the Work (or designated portion) substantially complete, Design Professional shall prepare and deliver to Contractor a Certificate of Completion (substantial or final Certificate of Completion) which shall fix the date of Substantial Completion for the entire Work (or designated portion thereof) and include a tentative punchlist of items to be completed or corrected by Contractor before final payment. Owner shall have the right to exclude Contractor from the Work and Project site (or designated portion thereof) after the date of Substantial Completion, but Owner shall allow Contractor reasonable access to complete or correct items on the tentative punchlist.

20.2. Upon receipt of written certification by Contractor that the Work is completed in accordance with the Contract Documents and is ready for final inspection and acceptance and upon receipt of a final Application for Payment, Design Professional will make such inspection and, if he finds the Work acceptable and fully performed under the Contract Documents, he shall promptly issue a final Certificate for Payment, recommending that, on the basis of his observations and inspections, and the Contractor's certification that the Work has been completed in accordance with the terms and conditions of the Contract Documents, that the entire balance found to be due Contractor is due and payable. Neither the final payment nor the retainage shall become due and payable until Contractor submits:

- (1) The Release and Affidavit in the form attached as Exhibit D.
- (2) Consent of surety to final payment.
- (3) If required by Owner, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by Owner.

Owner reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though the Design Professional may have issued his recommendations. Unless and until the Owner is completely satisfied, neither the final payment nor the retainage shall become due and payable.

## 21. WARRANTY.

21.1. Contractor shall obtain and assign to Owner all express warranties given to Contractor or any subcontractors by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to Owner that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to Owner that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within one (1) year after final completion, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which Owner is entitled as a matter of law.

## 22. TESTS AND INSPECTIONS.

22.1. Owner, Design Professional, their respective representatives, agents and employees, and governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide Design Professional with timely notice of readiness of the Work for all required inspections, tests or approvals.

22.2. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish Design Professional the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the Design Professional and Owner.

22.3. If any Work that is to be inspected, tested or approved is covered without written concurrence from the Design Professional, such work must, if requested by Design Professional, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Design Professional timely notice of Contractor's intention to cover the same and Design Professional has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from Design Professional, such Work must, if requested by Design Professional, be uncovered for Design Professional's observation and be replaced at Contractor's sole expense.

22.4. The Owner shall charge to Contractor and may deduct from any payments due Contractor all engineering and inspection expenses incurred by Owner in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

22.5. Neither observations nor other actions by the Design Professional nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

## 23. DEFECTIVE WORK.

23.1. Work not conforming to the requirements of the Contract Documents or any warranties made or assigned by Contractor to Owner shall be deemed defective Work. If required by Owner or Design Professional, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or if the defective Work has been rejected by Owner or Design Professional, remove it from the site and replace it with undefective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold Owner harmless for same.

23.2. If the Owner or Design Professional consider it necessary or advisable that covered Work be observed by Design Professional or inspected or tested by others, Contractor, at Owner's or Design Professional's request, shall uncover, expose or

otherwise make available for observation, inspection or tests as Owner or Design Professional may require, that portion of the Work in question, furnishing all necessary labor, material and equipment.

If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and Owner shall be entitled to an appropriate decrease in the Contract Amount.

If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension to the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

23.3. If any portion of the Work is defective, or if Contractor fails to supply sufficient skilled workers, suitable materials or equipment or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner or Design Professional 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 and Design Professional to stop the Work shall not give rise to any duty on the part of Owner or Design Professional to exercise this right for the benefit of Contractor or any other party.

23.4. Should the Owner determine, at its sole opinion, it is in the Owner's best interest to accept defective Work, the Owner may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the Owner's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the Owner accepts such defective Work after final payment, Contractor shall promptly pay Owner an appropriate amount to adequately compensate Owner for its acceptance of the defective Work.

23.5. If Contractor fails, within a reasonable time after the written notice from Owner or Design Professional, to correct defective Work or to remove and replace rejected defective Work as required by Design Professional or Owner, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, Owner may, after seven (7) days written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at

the Project site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Design Professional and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable Owner to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of Owner in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

#### 24. SUPERVISION AND SUPERINTENDENTS.

24.1. Contractor shall plan, organize, supervise, schedule, monitor, direct and control 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 responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to Owner and Design Professional except under extraordinary circumstances. The superintendent shall be employed by the Contractor and be the Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. Owner shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

#### 25. PROTECTION OF WORK.

25.1. Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor or any one for whom Contractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Owner or Owner's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

25.2. 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.



25.3. Contractor shall not disturb any benchmark established by the Design Professional with respect to the Project. If Contractor, or its subcontractors, agents or anyone for whom Contractor is legally liable, disturbs the Design Professional's benchmarks, Contractor shall immediately notify Owner and Design Professional. The Design Professional shall reestablish the benchmarks and Contractor shall be liable for all costs incurred by Owner associated therewith.

## 26. EMERGENCIES.

26.1. In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from Owner or Design Professional is obligated to act to prevent threatened damage, injury or loss. Contractor shall give Design Professional written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Design Professional determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

## 27. USE OF PREMISES.

27.1. Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

## 28. SAFETY.

28.1. Contractor shall be 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:

- 28.1.1. All employees on or about the project site and other persons and/or organizations who may be

affected thereby;

28.1.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and

28.1.3. Other property on Project site or adjacent thereto, including trees, shrubs, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the Contract Documents.

28.2. Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by Owner has occurred.

28.3. Contractor shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to Owner.

## 29. PROJECT MEETINGS.

Prior to the commencement of Work, the Contractor shall attend a preconstruction conference with the Design Professional and others as appropriate to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the Design Professional or Owner with respect to the Project, when directed to do so by Owner or Design Professional. Contractor shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by the Owner or Design Professional.

## 30. ASSURANCES WITH REGARD TO OWNER'S EMPLOYEES

30.1 Contractor agrees not to employ or offer to employ any Elected Officer or City Managerial Employee who in any way deals with, coordinates on, or assists with, the construction services

provided in this Agreement, for a period of two (2) years after termination of all provisions of this Agreement.

30.2 If Contractor violates the provisions of paragraph 30.1, Contractor shall be required to pay damages to Owner in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee from or on behalf of the Contractor, or an amount equal to the former Elected Officer's or City Managerial Employee's last two (2) years of gross compensation from Owner, whichever is greater.

30.3 For purposes of this section, the terms "Elected Officer" shall mean any member of the City Council and "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director.

### 31. ASSURANCES WITH REGARD TO THIRD PARTIES

31.1 Contractor agrees not to provide services for compensation to any other party other than Owner on the same subject matter, same project, or scope of services without approval from the City Council of Owner.

31.2 Except as otherwise provided in this Agreement, Contractor agrees not to disclose or use information not available to members of the general public and gained by reason of Contractor's contractual relationship with Owner for the special gain or benefit of Contractor, or for the special gain or benefit of any other person or entity.

**EXHIBIT B**  
**PUBLIC PAYMENT BOND**

Bond No. \_\_\_\_\_  
Contract No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_,  
\_\_\_\_\_, as  
Principal, and \_\_\_\_\_, as  
Surety, located at \_\_\_\_\_  
(Business Address) are held and firmly bound to \_\_\_\_\_  
as Obligees in the sum of \_\_\_\_\_  
\_\_\_\_\_ (\$\_\_\_\_\_) for the payment whereof we bind  
ourselves, our heirs, executors, personal representatives,  
successors and assigns, jointly and severally.

WHEREAS, Principal has entered into a contract dated as of the  
\_\_\_\_ day of \_\_\_\_\_, 2007, with Obligees for \_\_\_\_\_  
\_\_\_\_\_

in accordance with drawings and specifications, which contract is  
incorporated by reference and made a part hereof, and is referred to  
as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

Promptly makes payment to all claimants as defined in Section  
255.05(1), Florida Statutes, supplying Principal with labor,  
materials or supplies, used directly or indirectly by Principal in  
the prosecution of the work provided for in the Contract, then this  
bond is void; otherwise it remains in full force.

Any changes in or under the Contract and compliance or  
noncompliance with any formalities connected with the Contract or  
the changes do not affect Surety's obligation under this Bond.

The provisions of this bond are subject to the time limitations  
of Section 255.05(2). In no event will the Surety be liable in the  
aggregate to claimants for more than the penal sum of this Payment  
Bond, regardless of the number of suits that may be filed by  
claimants.

IN WITNESS WHEREOF, the above parties have executed this  
instrument this \_\_\_\_ day of \_\_\_\_\_ 2007, the name of each  
party being affixed and these presents duly signed by its under-  
signed representative, pursuant to authority of its governing body.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

Witnesses as to Principal

PRINCIPAL:

\_\_\_\_\_

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

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_day  
of \_\_\_\_\_ 2007, by \_\_\_\_\_,  
as \_\_\_\_\_ of \_\_\_\_\_,  
a \_\_\_\_\_ corporation, on behalf of the corporation. He/she  
is personally known to me OR has produced \_\_\_\_\_ as  
identification and did (did not) take an oath.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary)

Name: \_\_\_\_\_  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of

Commission No.:

**ATTEST:**

**SURETY:**

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
Witness as to Surety

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

\_\_\_\_\_  
(Printed Name)

OR

\_\_\_\_\_

\_\_\_\_\_

Witnesses

\_\_\_\_\_

As Attorney in Fact  
(Attach Power of Attorney)

\_\_\_\_\_

\_\_\_\_\_

(Business Address)

\_\_\_\_\_

(Printed Name)

\_\_\_\_\_

(Telephone Number)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_day  
of \_\_\_\_\_, 2007, by \_\_\_\_\_,  
as \_\_\_\_\_ of \_\_\_\_\_  
Surety, on behalf of Surety. He/She is personally known to me OR  
has produced \_\_\_\_\_ as identification  
and who did (did not) take an oath.

My Commission Expires:

\_\_\_\_\_

(Signature of Notary)

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

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of \_\_\_\_\_  
Commission No.: \_\_\_\_\_

PUBLIC PERFORMANCE BOND

Bond No. \_\_\_\_\_  
Contract No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_  
\_\_\_\_\_, as Principal, and \_\_\_\_\_  
\_\_\_\_\_, as Surety, located at \_\_\_\_\_  
\_\_\_\_\_ (Business Address) are  
held and firmly bound to \_\_\_\_\_, as  
Obligee in the sum of \_\_\_\_\_  
(\$\_\_\_\_\_) for the payment whereof we bond ourselves, our  
heirs, executors, personal representatives, successors and assigns,  
jointly and severally.

WHEREAS, Principal has entered into a contract dated as of the  
\_\_\_\_\_ day of \_\_\_\_\_, 2007, with Obligee for \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ in  
accordance with drawings and specifications, which contract is  
incorporated by reference and made a part hereof, and is referred to  
as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract, including, but not limited to, all delay damages, whether liquidated or actual, incurred by Obligee; and
3. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect Surety's obligation under this Bond.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligations under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond. It is expressly understood that the time provisions and statute of limitations under Section 255.05, Florida Statutes, shall

not apply to this bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penal sum of this Performance Bond regardless of the number of suits that may be filed by Obligee.

IN WITNESS WHEREOF, the above parties have executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2007, the name of each party being affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered  
in the presence of:

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_

Witnesses as to Principal

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

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_day of \_\_\_\_\_ 2007, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me OR has produced \_\_\_\_\_ as identification and did (did not) take an oath.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary)

Name: \_\_\_\_\_  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of

Commission No.:



**ATTEST:**

**SURETY:**

\_\_\_\_\_  
Witness as to Surety  
\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_  
(Authorized Signature)

**OR**

\_\_\_\_\_  
\_\_\_\_\_  
Witnesses

\_\_\_\_\_  
As Attorney in Fact  
(Attach Power of Attorney)  
\_\_\_\_\_  
\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Telephone Number)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2007, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_ Surety, on behalf of Surety. He/She is personally known to me OR has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary)  
Name: \_\_\_\_\_  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of  
Commission No.: \_\_\_\_\_

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

(1) The amounts and types of insurance coverage shall conform to the following minimum requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents.

(2) The insurance required by this Agreement shall be written for not less than the limits specified herein or required by law, whichever is greater.

(3) Coverages shall be maintained without interruption from the date of commencement of the work until the date of completion and acceptance of the Project by the Owner or as specified in this Agreement, whichever is longer.

(4) Certificates of insurance (3 copies) acceptable to the Owner shall be filed with the Owner within ten (10) calendar days after Notice of Award is received by Contractor. Such certificates shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner.

(5) All insurance coverages of the Contractor shall be primary to any insurance or self insurance program carried by the Owner applicable to this Project.

(6) The acceptance by Owner of any Certificate of Insurance does not constitute approval or agreement by the Owner that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of this Agreement.

(7) Contractor shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in this Section unless such insurance requirements for the subcontractor are expressly waived in writing by the Owner.

(8) Should at any time the Contractor not maintain the insurance coverages required herein, the Owner may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The Owner shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the Owner to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

(9) If the initial, or any subsequently issued Certificate of Insurance expires prior to the completion of the Work or termination of the Agreement, the Consultant shall furnish to the City, in

triplicate, renewal or replacement Certificate(s) of Insurance not later than thirty (30) calendar days prior to the date of their expiration. Failure of the Contractor to provide the City with such renewal certificate(s) shall be considered justification for the City to terminate the Agreement.

#### WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

##### Required by this Agreement?

**Yes**     **No**

(1) Workers' Compensation and Employers' Liability Insurance shall be maintained by the Contractor during the term of this Agreement for all employees engaged in the work under this Agreement in accordance with the laws of the State of Florida. The amounts of such insurance shall not be less than:

a. Worker's Compensation - Florida Statutory Requirements

b. Employers' Liability

\_\_\_\_\_ \$ 100,000 Each Accident  
\_\_\_\_\_ \$ 500,000 Disease Aggregate  
\_\_\_\_\_ \$ 100,000 Disease Each Employee  
\_\_\_\_\_ \$1,000,000 Each Accident  
\_\_\_\_\_ \$1,000,000 Disease Aggregate  
\_\_\_\_\_ \$1,000,000 Disease Each Employee

(2) The insurance company shall waive its Rights of Subrogation against the Owner and the policy shall be so endorsed.

(3) United States Longshoreman's and Harborworker's Act coverage shall be maintained where applicable to the completion of the work.

\_\_\_ Applicable         **Not Applicable**

(4) Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work.

\_\_\_ Applicable         **Not Applicable**

#### COMMERCIAL GENERAL LIABILITY

##### Required by this Agreement?

**Yes**        \_\_\_\_\_ **No**

(1) Commercial General Liability Insurance shall be maintained by the Contractor. Coverage will include, but not be limited to, Bodily Injury, Property Damage, Personal Injury, Contractual Liability for this Agreement, Independent Contractors, Broad Form Property Damage including Completed Operations and Products and Completed Operations Coverage. Products and Completed Operations

coverage shall be maintained for a period of not less than five (5) years following the completion and acceptance by the Owner of the work under this Agreement. Limits of Liability shall not be less than the following:

_____	General Aggregate	\$ 300,000
	Products/Completed Operations Aggregate	\$ 300,000
	Personal and Advertising Injury	\$ 300,000
	Each Occurrence	\$ 300,000
	Fire Damage	\$ 50,000
_____	General Aggregate	\$ 500,000
	Products/Completed Operations Aggregate	\$ 500,000
	Personal and Advertising Injury	\$ 500,000
	Each Occurrence	\$ 500,000
	Fire Damage	\$ 50,000
<b><u>x</u></b>	<b>General Aggregate</b>	<b>\$1,000,000</b>
	<b>Products/Completed Operations Aggregate</b>	<b>\$1,000,000</b>
	<b>Personal and Advertising Injury</b>	<b>\$1,000,000</b>
	<b>Each Occurrence</b>	<b>\$1,000,000</b>
	<b>Fire Damage</b>	<b>\$ 50,000</b>

(2) The General Aggregate Limit shall apply separately to this Project and the policy shall be endorsed using the following endorsement wording. "This endorsement modifies insurance provided under the following: Commercial General Liability Coverage Part. The General Aggregate Limit under LIMITS OF INSURANCE applies separately to each of your projects away from premises owned by or rented to you."

(3) If the General Liability insurance required herein is issued or renewed on a "claims made" basis, as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the commencement date of the Project and shall provide that in the event of cancellation or non-renewal the Extended Reporting Period (Discovery Period) for claims shall be no less than three (3) years.

(4) The Owner shall be named as an Additional Insured and the policy shall be endorsed that such coverage shall be primary to any similar coverage carried by the Owner.

(5) Coverage shall be included for explosion, collapse or underground property damage claims.

(6) Watercraft Liability coverage shall be carried at the limits shown above if applicable to the completion of the work under this Agreement.

\_\_\_\_\_ Applicable      **x Not Applicable**

(7) Aircraft Liability coverage shall be carried at limits of \$2,000,000 each occurrence if applicable to the completion of the work under this Agreement.

\_\_\_ Applicable      **x Not Applicable**

PROPERTY INSURANCE - BUILDERS RISK

(1) Property Insurance - Builders Risk coverage shall be carried by the Owner if applicable.

\_\_\_ Applicable      **x Not Applicable**

(2) The Owner shall purchase and maintain in a company or companies lawfully authorized to do business in the State of Florida, in Collier County, and the City of Naples, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors, Sub-subcontractors and Material Suppliers in the Work.

(3) Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, wind and hail, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and, at the Owner's option, shall cover reasonable compensation for Professional's services and expenses required as a result of such insured loss. At the Owner's option, flood insurance will also be purchased.

(4) The property insurance provided by the Owner requires minimum deductibles and the Contractor shall pay costs not covered by the deductibles. The responsibility of the Contractor for any deductible associated with the all-risk policy described above shall be limited to a maximum of \$1,000 for each occurrence unless higher deductibles are identified in Exhibit C of the Contract Documents. The responsibility of the Contractor for any deductible associated with the flood insurance identified herein, if purchased by the Owner, shall be limited to a maximum of \$1,000 for each occurrence unless higher deductibles are identified in Exhibit C of the Contract Documents.

(5) This property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in

transit.

(6) Boiler and Machinery Insurance. The Owner shall have the option of purchasing and maintaining boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner. If purchased this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work.

(7) Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Professional, Professional's consultants, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this exhibit or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The policies shall provide waivers of subrogation by endorsement or otherwise.

(8) A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear.

(9) If Builders Risk coverage is applicable the Contractor shall be responsible for the following maximum deductibles per occurrence per paragraph (3) above. (check one if applicable)

- All Risk Policy - \$1,000 maximum deductible
- All Risk Policy - Maximum deductible of \$\_\_\_\_\_
- Flood Policy - \$1,000 maximum deductible
- Flood Policy - Maximum deductible of \$\_\_\_\_\_

#### AUTOMOBILE LIABILITY INSURANCE

Required by this Agreement?

**Yes**      No

(1) Automobile Liability Insurance shall be maintained by the Contractor/Consultant/Professional for the ownership, maintenance or use of any owned, non-owned or hired vehicle with limits of not less than: (check one if applicable)

- Bodily Injury & Property Damage**     **\$ 500,000**
- Bodily Injury & Property Damage     \$1,000,000

(2) The Owner shall be named as an Additional Insured under the policy.

## UMBRELLA LIABILITY

(1) Umbrella Liability may be maintained as part of the liability insurance of the Contractor and, if so, such policy shall be excess of the Employers' Liability, Commercial General Liability and Automobile Liability coverages required herein and shall include all coverages on a "following form" basis.

(2) The policy shall contain wording to the effect that, in the event of the exhaustion of any underlying limit due to the payment of claims, the Umbrella policy will "drop down" to apply as primary insurance.

(ii) The General Aggregate limit, if applicable, shall apply separately to this project and the policy shall be so endorsed.

**EXHIBIT D  
RELEASE AND AFFIDAVIT**

COUNTY OF COLLIER     )

STATE OF FLORIDA     )

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$\_\_\_\_\_ paid, \_\_\_\_\_ ("Contractor") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, damages, costs and expenses, whether in contract or in tort, against the City Council for the City of Naples, Florida, relating in any way to the performance of the Agreement between Contractor and Owner, dated \_\_\_\_\_, 199\_\_, for the period from \_\_\_\_\_ to \_\_\_\_\_.

(2) Contractor certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which Owner might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Contractor agrees to indemnify, defend and save harmless Owner from all demands or suits, actions, claims of liens or other charges filed or asserted against the Owner arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(ii) This Release and Affidavit is given in connection with Contractor's [monthly/final] Application for Payment No.\_\_\_\_\_.

CONTRACTOR:

\_\_\_\_\_

By:

Its: \_\_\_\_\_ President

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



Witnesses

[Corporate Seal]

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

My Commission Expires: \_\_\_\_\_

(Signature of Notary)

Name: \_\_\_\_\_  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of \_\_\_\_\_

Commission No.: \_\_\_\_\_

**EXHIBIT E**  
**FORM OF CONTRACT APPLICATION FOR PAYMENT**

**APPLICATION AND CERTIFICATE FOR PAYMENT**

**To Owner:** City of Naples  
 735 Eighth Street South  
 Naples, Florida 34102

**Project:** (Project Name) \_\_\_\_\_

**Application No.:** 2

**To Contractor:** Firm Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_

**Via (Arch/Eng):** (Firm if Applicable)  
 City Purchase Order#: \_\_\_\_\_  
 Period to: \_\_\_\_\_  
 Project No: \_\_\_\_\_  
 Contract Date: \_\_\_\_\_

**Contract for:** \_\_\_\_\_

**Distribution to:**

Owner
Architect/Engineer
Contractor

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Construction Sheet is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

- 1. ORIGINAL CONTRACT SUM .....\$ \_\_\_\_\_
- 2. Net Change By Change Order .....\$ \_\_\_\_\_
- 3. Contract Sum To Date (Line 1 +/- 2) .....\$ \_\_\_\_\_
- 4. RETAINAGE:  
 a. 10% of Completed Work.....\$ \_\_\_\_\_ 0
- 5. TOTAL EARNED LESS RETAINAGE .....\$ \_\_\_\_\_  
 (Line 3 less Line 4 Total)
- 6. CURRENT PAYMENT DUE .....\$ \_\_\_\_\_ 0

**CONTRACTOR:** \_\_\_\_\_ SEAL \_\_\_\_\_

**BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

State of: \_\_\_\_\_ County of: \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
 Notary Public: \_\_\_\_\_  
 My Commission expires: \_\_\_\_\_

**ARCHITECT/ENGINEER/PROJECT MANAGER'S CERTIFICATE FOR PAYMENT**

In accordance with the contract Documents, based on on-site observations and the data comprising the above application, the Architect/Engineer/Project Manager certifies to the Owner that to the best of the Architect/Engineer/Project Manager's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total Approved this Month		
<b>TOTALS</b>		
NET CHANGES by Change Order		

**AMOUNT CERTIFIED \$** \_\_\_\_\_

(Attach explanation if amount certified differs from the amount applied. Initial all figures on the Application and on the Continuation Sheet that are changed to conform with the amount certified.)

**ARCHITECT/ENGINEER/PROJECT MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

**EXHIBIT F  
CHANGE ORDER**

CHANGE ORDER NO. \_\_\_\_\_

CONTRACT NO. \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

PROJECT NAME: \_\_\_\_\_

PROJECT NO.: \_\_\_\_\_

Under our AGREEMENT dated \_\_\_\_\_, 2007.

---

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement:

FOR THE (Additive) (Deductive) Sum of: \_\_\_\_\_  
\_\_\_\_\_ (\$ \_\_\_\_\_).

Original Agreement Amount	\$ _____
Sum of Previous Changes	\$ _____
This Change Order (Add) (Deduct)	\$ _____
Present Agreement Amount	\$ _____

The time for completion shall be (increased/decreased) by \_\_\_\_\_ calendar days due to this Change Order. Accordingly, the Contract Time is now \_\_\_\_\_ (\_\_\_\_\_) calendar days. The substantial completion date is \_\_\_\_\_ and the final completion date is \_\_\_\_\_. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions as contained in our Agreement indicated above, as fully as if the same were repeated in this acceptance. The adjustment, if any, to the Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

Accepted: \_\_\_\_\_, 2007

CONTRACTOR:

OWNER:

CITY COUNCIL,  
CITY OF NAPLES, FLORIDA

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DESIGN PROFESSIONAL:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT G**  
**SUPPLEMENTAL TERMS AND CONDITIONS**

1. Change Orders. Notwithstanding anything in the Contract Documents to the contrary, Change Orders may be approved by the \_\_\_\_\_ or his designee provided that the change (or the sum of the changes):
  - (ii) amounts to ten percent (10%) or less of the original Contract Amount approved by the City Council of the City of Naples; and
  - (ii) does not exceed Fifty Thousand Dollars (\$50,000.00).

EXHIBIT H  
PLANS AND SPECIFICATIONS

ATTACHED ARE: THE ENTIRE PROJECT MANUAL  
ADDENDUM  
BID RESPONSE

# **PROJECT MANUAL**

**City of Naples**  
**RENOVATIONS AND ADDITIONS**  
**MOTOR VEHICLE SERVICE BAYS # 7 & # 8**

**BID # 041-07**

## **CITY PROJECT MANAGER**

**David Graff**  
295 Riverside Circle  
Naples, FL 34102  
239-213-5006

**ENGINEER** (Design Professional)

**KRIS JAIN & ASSOC., INC.**  
660 Tamiami Trail North, Suite #36  
Naples, FL 34102-8139  
Certificate of Authorization # 2267  
Phone: 239-262-4225  
Cell Phone: 239-537-5950

March, 2007

**CITY OF NAPLES**  
Purchasing Department  
270 Riverside Circle  
Naples, Florida 34102

CITY OF NAPLES  
RENOVATIONS AND ADDITIONS  
MOTOR VEHICLE SERVICE BAYS # 7 & # 8

**TABLE OF CONTENTS**

SECTION      TITLE

**DIVISION 0 - BIDDING AND CONTRACT REQUIREMENTS**

-	Legal Invitation to Bid and Bidder's Certification (1 page)
	City's General Conditions (3 pages)
	General Insurance Requirements (1 page)
	Statement of No Bid (1 page)
	References (1 page)
	Special Conditions (1 page)
-	Detailed Invitation to Bid
00200	Instruction to Bidders
00300	Bid Proposal Form with Bid Schedule
	Statement of Relevant Experience, Exhibit <b>E1</b>
	List of Subcontractors, Exhibit <b>E2</b>
	List of Material & product Manufacturers, Exhibit <b>E3</b>
	Trench Safety Act, Exhibit <b>E4</b>
00410	Bid Bond
00420	Corporate Resolution
00490	Notice of Award Form
00500	City's Agreement Form (Not included)
00620	Construction Payment Bond Form
00630	Construction Performance Bond Form
00650	Certificate of Insurance Requirements
00700	Standard General Conditions of Construction
00720	Supplementary Conditions
00842	Notice to Proceed Form
00843	Contractor's Application for Payment Form
00844	Change Order Form
00850	Field Order Form
00860	Work Directive Form (not included)
00980	Contractor's Release of Lien Form
-	Shop Drawing Submittal Form
Project Plans-	Plans & Specifications prepared by Kris Jain & Assoc., Inc.; Naples, FL and identified as "Renovations & Additions to MV Service Bays #7 & #8", and listed on the drawings cover sheet as Plan Sheets 1 through 15.

Continued next page



CITY OF NAPLES  
RENOVATIONS AND ADDITIONS  
MOTOR VEHICLE SERVICE BAYS # 7 & # 8

**TABLE OF CONTENTS (Continued)**

SECTION      TITLE

**TECHNICAL SPECIFICATIONS**

**DIVISION 1 - GENERAL REQUIREMENTS**

01010	Scope of Work and Summary
01020	Alternates
01030	Reference Standards and Definitions
01040	Precedence and Conflict Procedure and Intent
01050	Request for Information (RFI) Procedures
01060	Proposal Request (PR) Procedure
01150	Temporary Protection
01300	Submittals
01700	Project Closeout
01710	Construction Cleaning
01725	Project Record Documents and O & M Manuals.
01740	Warranties & Bonds.

**DIVISIONS 2 through 15**

**OTHER TECHNICAL SPECIFICATIONS**

Structural, Architectural, Electrical, Mechanical, Plumbing etc.

See plan sheets 1 through 15 as prepared by Kris Jain & Assoc., Inc. and identified as Renovations & Additions to MV Service Bays #7 & 8

APPROVED  
TECHNICAL  
SPECIFICATIONS

\_\_\_\_\_  
Krishan K. Jain, P.E.  
FL PE # 21199

Date \_\_\_\_\_

END

**DIVISION 0 - BIDDING & CONTRACT DOCUMENTS**

**DETAILED INVITATION TO BID**

**RENOVATIONS AND ADDITIONS TO  
MOTOR VEHICLE SERVICE BAYS # 7 & # 8**

**CITY OF NAPLES, BID # 041- 07**

Separate sealed bid proposals from General Contractors will be received for the Renovations & Additions to the MV Service Bays # 7 and 8, addressed to Mr. J.F Workman, Purchasing Manager, City of Naples, 270 Riverside Circle, Naples, FL, 34102 until **2:00 PM LOCAL TIME**, on the **26<sup>th</sup> day of April, 2007**, at which time all bids will be publicly opened and read aloud. Any bids received after the time and date specified will not be accepted and shall be returned unopened to the Bidder.

**A mandatory pre-bid conference** shall be held at the Purchasing **Conference Room, 270 Riverside Circle, Naples, FL** at **9:00 AM. LOCAL TIME** on the **9<sup>th</sup> day of April, 2007**, at which time all prospective Bidders may visit the project site and have questions answered regarding the Bidding Documents for this Project. All technical questions after the pre-bid meeting shall be submitted in writing no later than **ten (10) days** before the bid date for possible addendum to the contract documents. **The Bidder's failure to attend the pre-bid conference shall result in the rejection of its bid.**

The Work is briefly described as follows: **The Additions involve installation of temporary compressed air connection in Service Bay #8, bypassing existing compressor and maintaining air and product supplies to all service bays during new work. Demolition of existing outside compressor room and appurtenances, construction of a new outside oil storage and compressor facility, installation of a new Owner furnished compressor; relocation of the four interior oil storage tanks to the new facility, including installation of new air and product piping to the existing inside piping risers; installation of lighting; dry and wet fire protection system etc.**

**Renovations involve replacement of existing four (4) OH doors with new RC doors, selective demolition of existing service bay floors, service pit top, apron slabs etc. with new reinforced floor slabs; application of special floor coating; relocation of eyewash; replacement of existing wash fountain with a new SS wash fountain; associated plumbing, piping etc. Details of the Additions and Renovation work are shown on the drawings.**

Sealed envelopes containing bids in **triplicate (original plus two (2) copies)** shall be marked or endorsed "**Bid Proposal for City of Naples, Renovations and Additions to Motor Vehicle Service Bays # 7 & 8, Bid # 041-07, and Bid Date of April 26<sup>th</sup>, 2007.**" The Bid Proposal documents shall be removed from the Project Manual prior to submittal.

One contract will be awarded for all Work. Bidding Documents may be examined at City of Naples Purchasing Department, 270 Riverside Circle, Naples, FL. Copies of the Bidding Documents and Technical Plans & Specifications may be arranged for a pickup by calling the Engineer's office in Naples, FL (Cell Phone: 239-537-5950) for a non refundable fee of \$30.00 for each set with half size (11"x17") plans and each additional full size (22"x34") set of drawings for \$25.00 to offset cost of reproduction etc.. Mailing costs shall be added to each fee charge when applicable. All procedural questions regarding the intended work should be directed to Mr. J.F. Workman, Purchasing Manager at 239-213-7100. All questions regarding the project shall be submitted in writing to the Purchasing Manager no later than 10 days before bid date for

possible inclusion and response in an addendum.

The following plan room services have obtained copies of the bidding documents for the contemplated work:

FW Dodge Company  
2830 Winkler Avenue, Suite 104A  
Ft Myers, FL, 33916  
Phone: (239) 939-2525

Each bid shall be accompanied by a certified or cashiers check or a Bid Bond in an amount not less than five percent (5%) of the total Bid to be retained as liquidated damages in the event the successful Bidder fails to execute the Agreement and file the required bonds and insurance within ten (10) calendar days after the receipt of the Notice of Award.

The successful Bidder shall be required to furnish the necessary Payment and Performance Bonds, as prescribed in the Project Manual. All Bid Bonds, Payment and Performance Bonds, Insurance Contracts and Certificates of Insurance shall be either executed by or countersigned by a licensed resident agent of the surety or insurance company having its place of business in the State of Florida. Further, the said surety or insurance company shall be duly licensed and qualified to do business in the State of Florida. Attorneys-in-fact that sign Bid Bonds or Payment and Performance Bonds must file with each bond a certified and effective dated copy of their Power of Attorney.

In order to perform public work, the successful Bidder shall, as applicable, hold or obtain such contractor's and business licenses, certifications and registrations as required by State statutes, County & City ordinances.

Before a contract will be awarded for the work contemplated herein, the City shall conduct such investigations as it deems necessary to determine the performance record and ability of the apparent low Bidder to perform the size and type of work specified in the Bidding Documents. Upon request, the Bidder shall submit such information as deemed necessary by the City to evaluate the Bidder's qualifications.

The Successful Bidder shall be required to finally complete all Work within 210 calendar days from and after the Commencement Date specified in the Notice to Proceed.

The City reserves the right to reject all Bids or any Bid not conforming to the intent and purpose of the Bidding Documents, and to postpone the award of the contract for a period of time which, however, shall not extend beyond ninety (90) days from the bid opening date.

Dated this \_\_\_\_\_, 2007

CITY OF NAPLES

BY: \_\_\_\_\_

J. F. Workman

Purchasing Manager

## SECTION 00200

### INSTRUCTIONS TO BIDDERS

#### Section 1. Definitions

- 1.1 The term "Owner" used herein refers to the City of Naples, Florida, a municipal corporation, or its duly authorized representative.
- 1.2 The term "Project Manager" used herein refers to the Owner's duly authorized representative and shall mean a Department Director acting directly or through duly authorized representatives.
- 1.3 The term "Design Professional" refers to the licensed professional engineer or architect who is in privity with the Owner for the purpose of designing and/or monitoring the construction of the project. Any or all duties of the Engineer (Design Professional) referenced under this Agreement may be assumed at any time by the Project Manager on behalf of the Owner. Conversely, the Project Manager may formally assign any of his/her duties specified in this agreement to the Engineer (Design Professional).
- 1.4 The term "Bidder" used herein means one who submits a bid directly to the Owner in response to this solicitation.
- 1.5 The term "Successful Bidder" means the lowest qualified, responsible and responsive Bidder who is awarded the contract by the City of Naples, on the basis of the Owner's evaluation, to be in the best interest of the City.
- 1.6 The term "Bidding Documents" includes the Legal Advertisement, these Instructions to Bidders, the Bid Proposal & Schedule and the Contract Documents as defined in the Agreement.
- 1.7 The term "Bid" shall mean a completed Bid Proposal & Schedule, bound in the Bidding Documents, properly signed, providing the Owner a proposed cost for providing the services required in the Bidding Documents.

#### Section 2. Preparation of Bids

- 2.1 The bids must be submitted on the prescribed Bid Proposal form furnished herein by the Owner (Pages 10 to 21). The Bidder shall complete the Bid Proposal in ink or by typewriter and shall sign the Bid correctly. The Bid may be rejected if it contains any omission, alteration of form, conditional bid or irregularities of any kind. Bids in **triplicate** must be submitted in sealed envelopes, marked with the Bid Number, Project Name and Bid opening Date and Time, and shall be **addressed to Mr. J.F. Workman, Purchasing Manager, City of Naples, 270 Riverside Circle, Naples, FL, 34102**. If forwarded by mail, the sealed envelope containing the Bid must be enclosed in another sealed envelope addressed as above. Bids received at the location specified herein after the time specified for bid opening will be returned to the bidder unopened and shall not be considered.

#### Section 3. Bid Deposit Requirements

- 3.1 No Bid shall be considered or accepted unless at the time of Bid filing the same shall be accompanied by a cashiers check, a certified check payable to Owner on some bank or trust company located in the State of Florida insured by the Federal Deposit Insurance Corporation, or Bid Bond, in an amount not less than 5% of the bidder's maximum possible award (base bid, unit price proposals, alternates plus all addenda) (collectively referred to herein as the "Bid Deposit"). The Bid Deposit shall be retained by Owner as liquidated damages if the successful Bidder fails to execute and deliver to the City Purchasing Manager

the Agreement, or fails to deliver the required Performance and Payment Bonds or Certificates of Insurance, all within ten (10) calendar days after receipt of the Notice of Award. Bid Bonds shall be executed by a corporate surety licensed under the laws of the State of Florida to execute such bonds, with conditions that the surety will, upon demand, forthwith make payment to Owner upon said bond. Bid Deposits of the three (3) lowest Bidders shall be held until the Agreement has been executed by the Successful Bidder and same has been delivered to Owner together with the required bonds and insurance, after which all three (3) Bid Deposits shall be returned to the respective Bidders. All other Bid Deposits shall be released within ten (10) working days of the Bid Opening. If a Bid is not accepted within said time period it shall be deemed rejected and the Bid Deposit shall be returned to Bidder. In the event that the Owner awards the contract prior to the expiration of the 60 day period without selecting any or all alternates, the Owner shall retain the right to subsequently award said alternates at a later time but no later than 120 days from opening unless otherwise authorized by the Purchasing Manager.

3.2 The Successful Bidder shall execute **five (5)** copies of the Agreement and deliver same to Owner within the time period noted above. The Owner shall execute all copies and return **two** fully executed copy of the Agreement to Successful Bidder within thirty (30) working days after receipt of the executed Agreement from Successful Bidder unless any governmental agency having funding control over the project requires additional time, in which event the Owner shall have such additional time to execute the Agreement as may be necessary.

#### Section 4. Right to Reject Proposals

4.1 The Owner reserves the right to reject any and all Bids with or without cause and waive any and all formalities; and, to award the bid that it determines to be in the best interest of the City of Naples.

4.2 The Owner does not discriminate on the basis of race, color, national origin, sex, religion, age and handicapped status in employment or provision of service.

#### Section 5. Signing of Bids

5.1 Bids submitted by a corporation must be executed in the corporate name by the president or a vice president, and a corporate seal must be affixed and attested to by the secretary or assistant secretary of the corporation. The corporate address and state of incorporation must be shown below the signature.

5.2 Bid proposals by a partnership must be executed in the partnership name and signed by a general partner whose title must appear under the signature and the official address of the partnership must be shown below said signature.

5.3 If Bidder is an individual, its signature shall be inscribed.

5.4 If signature is by an agent or other than an officer of corporation or general partner of partnership, a properly notarized power of attorney must be submitted with the Bid.

5.5 All Bids shall have names typed or printed below all signatures.

5.6 All Bids shall state the Bidder's contractor license number.

5.7 Failure to follow the provisions of this section shall be grounds for rejecting the Bid as irregular or unauthorized.

#### Section 6. Withdrawal of Proposals

Any Bid may be withdrawn at any time prior to the hour fixed in the Legal Advertisement for the opening of Bids, provided that the withdrawal is requested in writing, properly executed by the Bidder and received by Owner prior to Bid Opening. The withdrawal of a Bid will not prejudice the right of a Bidder to file a new Bid prior to the time specified for Bid opening.

#### Section 7. Late Bids

No Bid shall be accepted that fails to be submitted prior to the time specified in the Legal Advertisement.

#### Section 8. Interpretation of Contract Documents

8.1 No interpretation of the meaning of the plans, specifications or other Bidding Documents shall be made to a Bidder orally. Any such oral or other interpretations or clarifications shall be without legal effect. All requests for interpretations or clarifications shall be submitted in writing, addressed to the City of Naples, Purchasing Manager or via facsimile (239) 213-7015, to be given consideration. All such requests for interpretations or clarification must be received at least **ten (10)** calendar days prior to the Bid opening date. Questions received less than **ten (10)** calendar days prior to the bid opening date will not be answered. Any and all such interpretations and supplemental instructions shall be in the form of written addenda which, if issued, shall be sent by mail or fax to all known Bidders at their respective addresses furnished for such purposes no later than **seventy two (72) hours** prior to the time fixed for the opening of Bids. Such written addenda shall be binding on Bidder and shall become a part of the Bidding Documents.

8.2 It shall be the responsibility of each Bidder to ascertain, prior to submitting its Bid that it has received all addenda issued and it shall acknowledge same in its Bid.

8.3 As noted in the Legal Advertisement, attendance by all bidders at the Pre-Bid Conference is mandatory. The Bidder's failure to attend the pre-bid conference shall result in the rejection of his bid.

#### Section 9. Examination of Site and Contract Documents

9.1 By executing and submitting its Bid, each Bidder certifies that it has:

- a. Examined all Bidding Documents thoroughly;
- b. Visited the site to become familiar with local conditions that may in any manner affect performance of the Work;
- c. Become familiar with all federal, state and local laws, ordinances, rules, and regulations affecting performance of the Work; and
- d. Correlated all of its observations with the requirements of bidding documents.

No plea of ignorance of conditions or difficulties that may exist or conditions or difficulties that may be encountered in the execution of the Work pursuant to these Bidding Documents as a result of failure to make the necessary examinations and investigations shall be accepted as an excuse for any failure or omission on the part of the Successful Bidder, nor shall they be accepted as a basis for any claims whatsoever for extra compensation or for an extension of time.

## Section 10. Material Requirements

It is the intention of these Bidding Documents to identify standard materials. When space is provided on the Bid Schedule, Bidders shall specify the materials which they propose to use in the Project. The Owner may declare any Bid non-responsive or irregular if such materials are not specifically named by Bidder.

## Section 11. Award of Contract

Any prospective bidder who desires to protest any aspect(s) or provision(s) of the bid invitation shall file his protest with the City Purchasing Manager in writing 10 days prior to the time of the bid opening.

Award of contract will be made by the City Council or the City Manager depending on the amount of contract after it is determined to be in the best interest of the City of Naples. The Owner may reject all bids proposing the use of any subcontractors who have been disqualified or de-certified for bidding purposes by any public contracting entity, or who has exhibited an inability to perform through any other means. When the contract is awarded by Owner, such award shall be evidenced by a Notice of Award, signed by the Purchasing Manager of Owner and delivered to the intended awardee or mailed to awardee at the business address shown in the Bid.

Any bidder who desires to formally protest the contract award shall file a written notice to the Purchasing Manager explaining in detail the nature of the protest and the grounds it is based within 48 hours of the City's declaration of intent to award. The Protest shall be accompanied by a protest bond in the form of a cashiers check, certified check or money order made payable to the City of Naples in not less than 5% of the bid amount but not to exceed \$7,500.00. If the Purchasing Manager can not resolve the dispute within two days the information will be forwarded to the City Attorney who will hand down a written decision within 10 business days.

For Bidders who may wish to receive copies of Bids after the Bid opening, the City of Naples reserves the right to recover all costs associated with the printing and distribution of such copies.

## Section 12. Sales Tax

The Contractor shall pay all applicable sales, consumer, use and other similar taxes required by law. The Contractor is responsible for reviewing the pertinent State statutes involving the sales tax and complying with all requirements.

## Section 13. City Permit Cost in Bid Prices

13.1 Bidders shall include the cost of all necessary City, County and State permits.

## Section 14. Use of Subcontractors

14.1 To ensure the work contemplated by this contract is performed in a professional and timely manner, all subcontractors shall be "qualified", meaning a person or entity that has the capability in all respects to perform fully the contract requirements and has the integrity and reliability to assure good faith performance. A subcontractor's disqualification from bidding by the Owner, or other public contracting entity within the past twelve months shall be considered by the Owner when determining whether the subcontractors are "qualified."

14.2 The Owner may consider the past performance and capability of a subcontractor when evaluating the ability, capacity and skill of the Bidder and its ability to perform the contract within the time required. Owner



reserves the right to disqualify a Bidder who includes subcontractors in its bid offer which are not “qualified” or who do not meet the legal requirements applicable to and necessitated by this Contract.

#### Section 15. Prohibition of Gifts

No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any City of Naples employee, as set forth in Chapter 112, Part III, Florida Statutes. Violation of this provision may result in one or more of the following consequences: a). Prohibition by the individual, firm, and/or any employee of the firm from contact with City of Naples staff for a specified period of time; b). Prohibition by the individual and/or firm from doing business with the City of Naples for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, c). immediate termination of any contract held by the individual and/or firm for cause.

END

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**SECTION 00300**

**BID PROPOSAL**

**CITY OF NAPLES  
RENOVATIONS AND ADDITIONS TO  
MV SERVICE BAYS # 7 & # 8  
BID NO. 041-07**

Full Name of Bidder \_\_\_\_\_

Main Business Address \_\_\_\_\_

Place of Business \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

State Contractor's License # \_\_\_\_\_

To: **CITY OF NAPLES**, Purchasing Division, 270 Riverside Circle, Naples, FL 34102 (hereinafter called the **Owner**)

The undersigned, as Bidder declares that the only person or parties interested in this Proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation; that it has carefully examined the location of the proposed work, the proposed forms of Agreement and Bonds, and the Contract Drawings and Specifications, including Addenda issued thereto and acknowledges receipt below:

Addendum Number	Date Issued	Contractor's Initials
_____	_____	_____
_____	_____	_____
_____	_____	_____

Bidder proposes, and agrees if this Proposal is accepted, Bidder will contract with the Owner in the form of the copy of the Agreement included in these Contract Documents, to provide all necessary machinery, tools, apparatus and other means of construction, including utility and transportation services necessary to do all the Work, and furnish and install all the materials and equipment specified or referred to in the Contract Documents in the manner and time herein prescribed and according to the requirements of the Owner as therein set forth, furnish the specified Contractor's Bonds and Insurance specified in the General Conditions of the Contract, and to do all other things required of the Contractor by the Contract Documents, and that it will take full payment the sums set forth in the following Bid Schedule:

**NOTE: If you choose to bid, please submit in triplicate (ONE ORIGINAL and TWO COPIES) of your bid proposal package on this form.**

**BID SCHEDULE  
MV Service Bays # 7 and # 8**

**Bid No. 041-07**

Having visited and become familiar with the conditions at the project site and having carefully examined the bidding requirements, drawings and specifications, the undersigned proposes to furnish all materials, labor, equipment and incidentals to complete the entire work in accordance with the design documents, applicable codes and ordinances as follows:

A. **LUMP SUM BASE BID:** renovations and additions to the m.v. service bays # 7 & # 8 including furnishing of all necessary labor, materials, tools, equipment etc. all complete, as per contract documents, general and supplementary conditions, special conditions, details, schedules, standard specifications and as indicated on engineer's plans & specifications, drawings sheets 1-15.

<u>Quantity</u>	<u>Unit</u>	<u>Total Price</u>
1	LS	\$ _____

B. **UNIT PRICES:** For unforeseen additional required work not shown on the drawings when approved by the Engineer and the Owner. Actual quantities may vary.

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Additional cast-in-place concrete, including formwork, reinforcing and finishing.	4	CY	_____	\$ _____
2	Additional block masonry work in place.	100	SF	_____	\$ _____
3.	Remove existing wall insulation and replace with new 3" fire rated insulation including necessary misc. galvanized steel and hardware as indicated on plans.	800	SF	_____	\$ _____
4.	Contingency Allowance for unforeseen and hidden conditions during construction.				

Amount of allowance shall be **10% of**

<b>Base Bid Item A.</b>	Allowance	\$ _____
	Sub Total B1 through B4	_____

C. **ALTERNATE BIDS:**

<u>Item</u>	<u>Description</u>	<u>Total Price</u>
1.	Add Alternate # 1: Demo north & south concrete approach slab aprons, replace with a new concrete slab apron and specified floor coating System-1 as shown on plans.	\$ _____

2. Add Alternate #2:  
Demo north concrete apron slab, replace with a new concrete slab and specified floor coating System-1 as shown on plans. \$ \_\_\_\_\_
3. Add Alternate #3.  
Service Bay # 5 West R.C. Door: Furnish and install one (1) electric operated, wind load & code compliant galvanized steel roll up curtain door to fit 17'-10"x 12'-6" opening to match existing Bay #6 RC Door with operators etc. \$ \_\_\_\_\_
4. Add Alternate #4  
Bays #1-4 West side Sectional Doors: Furnish and install four (4) electric Operated, wind load code compliant, galvanized steel sectional garage doors to fit 17'-10"x12'-6" opening with operators etc. \$ \_\_\_\_\_

Sub Total C1 through C4 \$ \_\_\_\_\_

**TOTAL BID PRICE (Base Bid plus items B1 through B4 and C1 through C4) \$ \_\_\_\_\_**

**TOTAL BID PRICE in words (Base Bid plus items B1 through B4 and C1 through C4) \$ \_\_\_\_\_**

---

(Total bid price in words)

---

We acknowledge receipt of the following Design Professional's documents:

- Engineer's Plans & Specifications, Drawings, sheets 1 through 15

The following documents are attached to and made a condition of this Bid:

1. Statement of Relevant Experience (Exhibit E1)
2. List of Subcontractors (Exhibit E2)
3. List of Material Manufacturers (Exhibit E3)
4. Trench Safety Affidavit (Exhibit E4)
5. Bid Security (surety bond or cashier's check, Section 00410)
6. Corporate Resolution (Section 00420)

Bidder agrees to submit Application for Payment on the prescribed Application for Payment form and submit specified Release of Liens and Affidavit Forms for payment under this contract. Ten (10) % shall be withheld from each payment until satisfactory completion of Punch List corrections and acceptance by the Engineer and the Owner and the work is certified Substantially Complete by the Engineer.

NOTE: Please return this bid form to the above address. **NO OTHER BID FORM WILL BE ACCEPTED.**

Bidder accepts the provisions of the Agreement as to the liquidated damages of \$250.00 per day in the event of failure to “Substantially Complete” (certified by the Engineer) the Work and additional liquidated damages of \$150.00 per day for failure to achieve “Final Completion” of the Work, both within the specified time schedule.

The service to be furnished by us is hereby declared and guaranteed to be in conformance with the project plans and specifications.

In submitting this bid, the Bidder makes all representations required by the Invitation to Bid and Instructions to Bidders and further warrants and represents the following:

1. Bidder is aware of the general nature of Work to be performed by Owner and others at the site as it relates to this Work indicated in the contract documents.
2. Bidder has given the Engineer written notice of all conflicts, errors, ambiguities or discrepancies that the Bidder has discovered in the Contract Documents and the written resolution thereof by the Engineer is acceptable to the Bidder and the Contract Documents are sufficient to indicate and convey understanding that all Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this bid is submitted.

Upon receipt of written notice of the conditional acceptance of this Bid, Bidder will execute the formal Contract attached within **ten (10)** calendar days and deliver the Surety Bond or Bonds and Insurance as required by the Contract Documents. The bid security attached in the sum of: \_\_\_\_\_ dollars (\$ \_\_\_\_\_) is to become the property of the Owner in the event the Contract, Insurance and Bonds are not executed within the time above set forth for the delay and additional expense to the Owner.

If awarded a contract under this Proposal, the undersigned agrees to commence work at the site within **7** calendar days from the commencement date stipulated in the written “Notice to Proceed” unless the Project Manager, in writing, subsequently notifies the Contractor of a modified (later) commencement date. The undersigned further agrees to **“Substantially Complete”** (certified by the Engineer) all work covered by this Proposal within ( 180 ) consecutive calendar days, computed by excluding the commencement date and including the last day of such period, and to be fully completed to the point of certified **“Final Acceptance”** by the Engineer and Owner within ( 210 ) consecutive calendar days, computed by excluding commencement date and including the last day of such period.

Respectfully Submitted:

State of Florida  
County of Collier

\_\_\_\_\_, being first duly sworn on oath deposes and says that the Bidder on the above Proposal is organized as indicated and that all statements herein made are made on behalf of such Bidder and that this deponent is authorized to make them.

\_\_\_\_\_, also deposes and says that it has examined and carefully prepared its Bid Proposal from the Contract Drawings and Specifications and has checked the same in detail before submitting this Bid; that the statements contained herein are true and correct.

(a) Corporation

The Bidder is a corporation organized and existing under the laws of the State of \_\_\_\_\_, which operates under the legal name of \_\_\_\_\_, and the full names of its officers are as follows:

President \_\_\_\_\_

Secretary \_\_\_\_\_

Treasurer \_\_\_\_\_

Manager \_\_\_\_\_

and it (does) or (does not) have a corporate seal. The \_\_\_\_\_ is authorized to sign construction proposals and contracts for the company by action of its Board of Directors taken \_\_\_\_\_, a certified copy of which is hereto attached (strike out this last sentence if not applicable).

(b) Co-Partnership

The Bidder is a co-partnership consisting of individual partners whose full names are as follows:

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

The co-partnership does business under the legal name of:

\_\_\_\_\_

(c) Individual

The Bidder is an individual whose full name is \_\_\_\_\_, and if operating under a trade name, said trade name is \_\_\_\_\_.

DATED \_\_\_\_\_

\_\_\_\_\_  
Legal entity

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

Name of Bidder (Typed)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

[Corporate Seal]

Telephone and e-mail address: \_\_\_\_\_ / \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary)

NAME:

\_\_\_\_\_  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of \_\_\_\_\_

Commission No.: \_\_\_\_\_



**EXHIBIT E1**

**STATEMENT OF RELEVANT EXPERIENCE**

The Bidder is required to state below what work of similar magnitude is a judge of its experience, skill and business standing and of its ability to conduct the work as completely and as rapidly as required under the terms of the contract.

NAME OF BIDDER: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

\_\_\_\_\_ Telephone No.: \_\_\_\_\_

CONTRACTOR'S FLORIDA LICENSE NO. \_\_\_\_\_

QUESTIONNAIRE:

1. Years organization has been in business as a General Contractor: \_\_\_\_\_

2. Have you ever failed to complete the work awarded to you? If so, where and why?

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

RELEVANT EXPERIENCE

<u>Project and Location</u>	<u>Reference</u>
1. _____ _____	_____ _____
2. _____ _____	_____ _____
3. _____ _____	_____ _____
4. _____ _____	_____ _____

Dated \_\_\_\_\_

\_\_\_\_\_  
Bidder

BY: \_\_\_\_\_

**EXHIBIT E2**

**LIST OF SUBCONTRACTORS**

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the Project Manager. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, certifications, registrations and insurance coverage. The City reserves the right to disqualify any bidder who includes non-compliant or non-qualified subcontractors in his/her bid offer. Further, the City may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the City. **THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE.** (Attach additional sheets as needed).

<u>Subcontractor and Address</u>	<u>Specialty</u>
1. _____ _____	_____
2. _____ _____	_____
3. _____ _____	_____
4. _____ _____	_____
5. _____ _____	_____
6. _____ _____	_____

Dated \_\_\_\_\_

\_\_\_\_\_  
Bidder

BY: \_\_\_\_\_

**EXHIBIT E3**

**MATERIAL MANUFACTURERS**

The Bidder is required to state below, material manufacturers it proposes to utilize on this project. No change will be allowed after submittal of Bid. If substitute material proposed and listed below is not approved by Engineer, Bidder shall furnish the manufacturer named in the specification. Acceptance of this Bid does not constitute acceptance of material proposed on this list. **THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE.**

MATERIAL

MANUFACTURER

- |          |       |
|----------|-------|
| 1. _____ | _____ |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |
| 5. _____ | _____ |
| 6. _____ | _____ |

Dated \_\_\_\_\_

\_\_\_\_\_  
Bidder

BY: \_\_\_\_\_

**EXHIBIT E4**

**TRENCH SAFETY ACT**

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

<u>Trench Safety Measure (Description)</u>	<u>Units of Measure (LF,SY)</u>	<u>Unit (Quantity)</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
			TOTAL	\$ _____

Failure to complete the above may result in the Bid declared non responsive.

DATE \_\_\_\_\_

\_\_\_\_\_  
Bidder

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

**SECTION 00410**

**BID BOND**

**RETURN IN DUPLICATE WITH BID  
NOT TO BE FILLED OUT IF A CERTIFIED CHECK IS SUBMITTED.**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned,  
\_\_\_\_\_ as Principal,

and \_\_\_\_\_ as Surety

are held and firmly bound unto the City of Naples, Florida, in the sum of  
\$\_\_\_\_\_ for the payment of which, will and truly to be made, we  
hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that if the attached Proposal of Principal and Surety for work  
specified as:

**Renovations & Additions  
Motor Vehicle Services Building  
Service bays # 7 and 8  
Naples, Florida**

all as stipulated in said Proposal, by doing all work incidental thereto, in accordance with the plans and  
specifications provided heretofore, all within Collier County, is accepted and the bidder shall within ten (10)  
days after notice of said award, enter into a contract, in writing, and furnish the required Performance Bond with  
surety or sureties to be approved by the Director of Purchasing, this obligation shall be void; otherwise the same  
shall be in full force and virtue by law and the full amount of this Proposal Bond will be paid to the City as  
stipulated or liquidated damages.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Principal Surety

Principal must indicate whether corporation, partnership, company, or individual.

The person signing shall, in his own handwriting, sign the Principal's name, his own name, and his title. The  
person signing for a corporation must, by affidavit, show his authority to bind the corporation.

SECTION 00420

CORPORATE RESOLUTION

I, \_\_\_\_\_, Secretary of \_\_\_\_\_  
\_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, hereby certify that at a meeting of the Board of Directors of the Corporation duly called and held on \_\_\_\_\_, 20\_\_, at which a quorum was present and acting throughout, the following resolutions were adopted and are now in full force and effect:

RESOLVED that the following individuals of this corporation are authorized to execute on behalf of this corporation a Bid and Agreement to \_\_\_\_\_ for the construction of\_\_\_\_\_.

I further certify that the names of the officers of this corporation and any other persons authorized to act under this resolution and their official signatures are as follows:

NAME	OFFICER	OFFICIAL SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the corporation this \_\_\_ day of \_\_\_\_\_, 20\_\_.

END OF SECTION

00420-1

NOTICE OF AWARD

SECTION 00450/ (00910)

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

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

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

Date of Bid Opening: \_\_\_\_\_

You are hereby notified that you are the apparent successful Bidder on the Project noted above. Upon compliance with the conditions precedent to be fulfilled by you within the time specified, the Agreement will be executed and delivered to you. The OWNER expects to award you a contract for:

\_\_\_\_\_ (\$ \_\_\_\_\_  
\_\_\_\_\_) \_\_\_\_\_  
\_\_\_\_\_

(Indicate total Work, Alternates or Sections of Work Awarded)

The Contract Price of your contract is:

\_\_\_\_\_ (\$ \_\_\_\_\_).

Enclosed are the following:

<u>No. Copies</u>	<u>Item</u>
5	Agreement between Owner and Contractor
5	Performance Bond
5	Payment Bond
5	Certificate of Insurance and Endorsement
5	Notice of Award

Please take the following actions on all copies of the above documents.

1. Execute the Agreement and seal.
2. Have your insurance company complete bond forms and attach notarized Acknowledgment of Authorized Representative.
3. Have your insurance company complete Certificates of Insurance and attach Acknowledgment of Authorized Representative.
4. Return all 5 copies of Agreement, bonds and insurance certificates within **ten (10)** days of this Notice of Award to:

City of Naples  
Purchasing Department

270 Riverside Drive  
Naples, FL 34102  
Attention: Purchasing Director

A fully executed copy of the Contract Documents shall be returned to you along with a Notice to Proceed.

BY:

\_\_\_\_\_  
Purchasing Manager  
City of Naples

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



**SECTION 00500**

**CITY'S AGREEMENT FORM**

Not included

(A sample copy may be reviewed at the City Purchasing Department)

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_, Corporation, as Principal, hereinafter called Contractor; and \_\_\_\_\_, a corporation of the State of \_\_\_\_\_, as surety, hereinafter called Surety, are held and firmly bound unto the City of Naples as Obligee, hereinafter called the City, in the amount of (\$ \_\_\_\_\_) \_\_\_\_\_ Dollars, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2007, entered into a Contract with the City of Naples for the following described project:

**Renovations & Additions, Motor Vehicle Service Bays # 7 and # 8  
City of Naples., Florida**

which contract is by reference incorporated herein and made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if Contractor shall promptly make payments to all persons supplying Contractor labor, materials and supplies, used directly or indirectly by the said Contractor or Subcontractors in the prosecution of the work provided for in said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed hereunder or the Specifications accompanying the same shall in anywise 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 this Bond is issued pursuant to Section 255.05, Florida Statutes, and reference is hereby made to the notice and time limitations in said statute for making claims against this Bond.

PROVIDED FURTHER, that any suit under this Bond must be instituted before the expiration of one (1) year from the performance of the labor or completion of delivery of the materials or supplies.

PROVIDED FURTHER, no right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein and those persons or corporations provided for by Section 255.05, Florida Statutes, their heirs, executors, administrators, successors or assigns.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2007.  
IN THE PRESENCE OF: \_\_\_\_\_ CONTRACTOR

\_\_\_\_\_ BY: \_\_\_\_\_

INSURANCE COMPANY

BY: \_\_\_\_\_

Agent and Attorney in Fact

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_ Corporation, as Principal, hereinafter called Contractor; and \_\_\_\_\_, as surety, hereinafter called Surety, are held and firmly bound unto the City of Naples as Oblige, hereinafter called the City, in the amount of (\$ \_\_\_\_\_) \_\_\_\_\_ Dollars, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2007, entered into a contract with the City for the following described project:

**Renovations & Additions, Motor Vehicle Service Bays # 7 and #8.  
City of Naples., Florida**

which contract is by reference incorporated herein and made a part hereof, and is hereinafter referred to as the contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall promptly and faithfully perform the Contract during the original term thereof and any extensions thereof which may be granted by the City with or without notice to the Surety and during any guarantee or warranty period, including the obligation to correct any latent defects not discovered until after acceptance of the project by the City, and if he shall satisfy all claims and demands incurred under said Contract and shall fully indemnify and save harmless the City, its agents, Engineer and employees from all losses, damages, expenses, costs and Attorney's Fees, including appellate proceedings which it may suffer by reason of failure to do so, and shall reimburse and repay the City all outlay and expense which the City may incur in making good any default, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, whenever Contractor shall be, and declared by the City to be in default under the Contract, the City having performed its obligations hereunder, the Surety may promptly remedy the default or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions; or
- (2) Obtain a bid or bids for submission to the City for completing the Contract in accordance with its terms and conditions and upon determination by the City and Surety of the lowest responsible bidder, arrange for a contract between such bidder and City and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion, less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price" as used in this paragraph, shall mean the total amount payable by the City to Contractor under the Contract and any amendments thereto, less the amount properly paid by the City to the Contractor.

PROVIDED FURTHER, the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed hereunder or the contract documents accompanying the same shall in any way 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 contract documents.

PROVIDED FURTHER, any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due; except that, when the action involves a latent defect, suit must be instituted within four (4) years from the time the defect is discovered or should have been discovered with the exercise of due diligence.

PROVIDED FURTHER, no right of action shall accrue on this bond to or for the use of any person or corporation other than the City, its successors or assigns.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2007.

IN THE PRESENCE OF:

CONTRACTOR

\_\_\_\_\_

BY: \_\_\_\_\_

INSURANCE COMPANY

BY: \_\_\_\_\_

Agent and Attorney in Fact

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**SECTION 00650**

**CERTIFICATE OF INSURANCE REQUIREMENTS**

**A. INSURANCE REQUIREMENTS**

1. Contractor shall purchase and maintain such comprehensive general liability and other insurance as required by the General Conditions, Special Conditions and General Insurance Requirements.

**B. CERTIFICATE OF INSURANCE**

1. The Certificate of Insurance submitted to the Owner and the Engineer shall be on the Insurance Company's form with a format similar to the popular ACCORD Corporation form.
2. The Certificate of Insurance shall indicate the Owner's Name and address. In addition the certificate shall show the names of the **Engineer (Kris Jain & Assoc., Inc., Naples, FL)** and his **Subconsultant (HSA Engineers, a.k.a. Anchor Engineering Consultants, Inc., Ft Myers, FL)** as additional insured's. In addition to receiving an insurance certificate listing the additional insured, the Contractor shall provide the Owner with a copy of the endorsement to the insurance policy when adding the additional insured's. Should any of the required policies be canceled before the expiration date, the issuing company shall provide written notice to each additional insured 30 day prior to cancellation.
3. The Owner's project name and project number shall be shown on the Certificate.
4. Submit five (5) copies of the Certificate with the executed Contract Agreement and Performance and Payment Bonds.

END

**SECTION 00700**

**STANDARD GENERAL CONDITIONS OF CONSTRUCTION**

(document attached following this page)

Note: The Standard General Conditions are in addition to the City's General Conditions. In case of a conflict, the requirements of the City's General Conditions shall prevail over these Standard General Conditions. These General Conditions define the various standard general terms and conditions normally applicable for most building and civil engineering construction.



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

STANDARD  
GENERAL CONDITIONS  
OF  
CONSTRUCTION

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By



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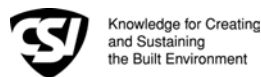
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The Associated General Contractors of America



Construction Specifications Institute

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1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies  
1015 15th Street, N.W., Washington, DC 20005

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Nos. C-520 or C-525 (2002 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001) (2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800) (2002 Edition).

TABLE OF CONTENTS

Page

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY . . . . .	6
1.01 <i>Defined Terms</i> . . . . .	6
1.02 <i>Terminology</i> . . . . .	8
ARTICLE 2 - PRELIMINARY MATTERS . . . . .	9
2.01 <i>Delivery of Bonds and Evidence of Insurance</i> . . . . .	9
2.02 <i>Copies of Documents</i> . . . . .	9
2.03 <i>Commencement of Contract Times; Notice to Proceed</i> . . . . .	9
2.04 <i>Starting the Work</i> . . . . .	9
2.05 <i>Before Starting Construction</i> . . . . .	9
2.06 <i>Preconstruction Conference</i> . . . . .	9
2.07 <i>Initial Acceptance of Schedules</i> . . . . .	9
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE . . . . .	10
3.01 <i>Intent</i> . . . . .	10
3.02 <i>Reference Standards</i> . . . . .	10
3.03 <i>Reporting and Resolving Discrepancies</i> . . . . .	10
3.04 <i>Amending and Supplementing Contract Documents</i> . . . . .	11
3.05 <i>Reuse of Documents</i> . . . . .	11
3.06 <i>Electronic Data</i> . . . . .	11
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS . . . . .	11
4.01 <i>Availability of Lands</i> . . . . .	11
4.02 <i>Subsurface and Physical Conditions</i> . . . . .	12
4.03 <i>Differing Subsurface or Physical Conditions</i> . . . . .	12
4.04 <i>Underground Facilities</i> . . . . .	13
4.05 <i>Reference Points</i> . . . . .	13
4.06 <i>Hazardous Environmental Condition at Site</i> . . . . .	13
ARTICLE 5 - BONDS AND INSURANCE . . . . .	14
5.01 <i>Performance, Payment, and Other Bonds</i> . . . . .	14
5.02 <i>Licensed Sureties and Insurers</i> . . . . .	15
5.03 <i>Certificates of Insurance</i> . . . . .	15
5.04 <i>Contractor's Liability Insurance</i> . . . . .	15
5.05 <i>Owner's Liability Insurance</i> . . . . .	16
5.06 <i>Property Insurance</i> . . . . .	16
5.07 <i>Waiver of Rights</i> . . . . .	17
5.08 <i>Receipt and Application of Insurance Proceeds</i> . . . . .	17
5.09 <i>Acceptance of Bonds and Insurance; Option to Replace</i> . . . . .	17
5.10 <i>Partial Utilization, Acknowledgment of Property Insurer</i> . . . . .	18
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES . . . . .	18
6.01 <i>Supervision and Superintendence</i> . . . . .	18
6.02 <i>Labor; Working Hours</i> . . . . .	18
6.03 <i>Services, Materials, and Equipment</i> . . . . .	18
6.04 <i>Progress Schedule</i> . . . . .	18
6.05 <i>Substitutes and "Or-Equals"</i> . . . . .	19
6.06 <i>Concerning Subcontractors, Suppliers, and Others</i> . . . . .	20
6.07 <i>Patent Fees and Royalties</i> . . . . .	21
6.08 <i>Permits</i> . . . . .	21
6.09 <i>Laws and Regulations</i> . . . . .	21
6.10 <i>Taxes</i> . . . . .	22
6.11 <i>Use of Site and Other Areas</i> . . . . .	22
6.12 <i>Record Documents</i> . . . . .	22

6.13	<i>Safety and Protection</i>	22
6.14	<i>Safety Representative</i>	23
6.15	<i>Hazard Communication Programs</i>	23
6.16	<i>Emergencies</i>	23
6.17	<i>Shop Drawings and Samples</i>	23
6.18	<i>Continuing the Work</i>	24
6.19	<i>Contractor's General Warranty and Guarantee</i>	24
6.20	<i>Indemnification</i>	24
6.21	<i>Delegation of Professional Design Services</i>	25
<b>ARTICLE 7 - OTHER WORK AT THE SITE</b>		25
7.01	<i>Related Work at Site</i>	25
7.02	<i>Coordination</i>	26
7.03	<i>Legal Relationships</i>	26
<b>ARTICLE 8 - OWNER'S RESPONSIBILITIES</b>		26
8.01	<i>Communications to Contractor</i>	26
8.02	<i>Replacement of Engineer</i>	26
8.03	<i>Furnish Data</i>	26
8.04	<i>Pay When Due</i>	26
8.05	<i>Lands and Easements; Reports and Tests</i>	26
8.06	<i>Insurance</i>	26
8.07	<i>Change Orders</i>	26
8.08	<i>Inspections, Tests, and Approvals</i>	26
8.09	<i>Limitations on Owner's Responsibilities</i>	27
8.10	<i>Undisclosed Hazardous Environmental Condition</i>	27
8.11	<i>Evidence of Financial Arrangements</i>	27
<b>ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION</b>		27
9.01	<i>Owner's Representative</i>	27
9.02	<i>Visits to Site</i>	27
9.03	<i>Project Representative</i>	27
9.04	<i>Authorized Variations in Work</i>	27
9.05	<i>Rejecting Defective Work</i>	27
9.06	<i>Shop Drawings, Change Orders and Payments</i>	28
9.07	<i>Determinations for Unit Price Work</i>	28
9.08	<i>Decisions on Requirements of Contract Documents and Acceptability of Work</i>	28
9.09	<i>Limitations on Engineer's Authority and Responsibilities</i>	28
<b>ARTICLE 10 - CHANGES IN THE WORK; CLAIMS</b>		28
10.01	<i>Authorized Changes in the Work</i>	28
10.02	<i>Unauthorized Changes in the Work</i>	29
10.03	<i>Execution of Change Orders</i>	29
10.04	<i>Notification to Surety</i>	29
10.05	<i>Claims</i>	29
<b>ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK</b>		30
11.01	<i>Cost of the Work</i>	30
11.02	<i>Allowances</i>	31
11.03	<i>Unit Price Work</i>	31
<b>ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES</b>		32
12.01	<i>Change of Contract Price</i>	32
12.02	<i>Change of Contract Times</i>	33
12.03	<i>Delays</i>	33
<b>ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK</b>		33
13.01	<i>Notice of Defects</i>	33
13.02	<i>Access to Work</i>	33
13.03	<i>Tests and Inspections</i>	33

13.04	<i>Uncovering Work</i>	34
13.05	<i>Owner May Stop the Work</i>	34
13.06	<i>Correction or Removal of Defective Work</i>	34
13.07	<i>Correction Period</i>	34
13.08	<i>Acceptance of Defective Work</i>	35
13.09	<i>Owner May Correct Defective Work</i>	35
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION		36
14.01	<i>Schedule of Values</i>	36
14.02	<i>Progress Payments</i>	36
14.03	<i>Contractor's Warranty of Title</i>	37
14.04	<i>Substantial Completion</i>	37
14.05	<i>Partial Utilization</i>	38
14.06	<i>Final Inspection</i>	38
14.07	<i>Final Payment</i>	38
14.08	<i>Final Completion Delayed</i>	39
14.09	<i>Waiver of Claims</i>	39
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION		39
15.01	<i>Owner May Suspend Work</i>	39
15.02	<i>Owner May Terminate for Cause</i>	39
15.03	<i>Owner May Terminate For Convenience</i>	40
15.04	<i>Contractor May Stop Work or Terminate</i>	40
ARTICLE 16 - DISPUTE RESOLUTION		41
16.01	<i>Methods and Procedures</i>	41
ARTICLE 17 - MISCELLANEOUS		41
17.01	<i>Giving Notice</i>	41
17.02	<i>Computation of Times</i>	41
17.03	<i>Cumulative Remedies</i>	41
17.04	<i>Survival of Obligations</i>	41
17.05	<i>Controlling Law</i>	41
17.06	<i>Headings</i>	41

GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

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1.01 ..... *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*--The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

20. *Field Order*--A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

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

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

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

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*--A schedule, prepared and maintained by Contractor, describing the sequence and

duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

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. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values*--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *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.

42. *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.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

44. *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.

45. *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.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

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

48. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *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.

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

51. *Work*--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be

incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02.....

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

B. *Intent of Certain Terms or Adjectives*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered", "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the 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 is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day*

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

D. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

- a. does not conform to the Contract Documents, or
- b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or
- c. has been damaged prior to Engineer's - recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide*



1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

**ARTICLE 2 - PRELIMINARY MATTERS**

2.01 .....  
A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

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

2.02 .....  
A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 .....  
A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in

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

2.04 .....  
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 .....  
A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule; indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

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

2.06 .....  
A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 ..... *Copies of Documents* .....  
A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional ~~10 days to make~~ *of Contract Tim* corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

**ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

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3.01 .....

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that 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 .....

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of Owner,

Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 .....

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

*Intent*

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and 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 promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

*Reference Standards*

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

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.05

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaption by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

*Reuse of Documents*

4.01

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

*Electronic Data*

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

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 or Engineer, or any of their Related Entities 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 .....

*A. Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

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

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

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

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such

condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

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

*C. Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made its final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other

dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 .....

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

*B. Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the

extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor ~~did not know of~~ *Underground Facilities* and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 .....

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

4.06 .....

*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 or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

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, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

**ARTICLE 5 - BONDS AND INSURANCE**

5.01 .....

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws

or Regulations, and shall be executed by such sureties as are named in the 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 the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02

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

5.03

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.

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

5.04

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason.

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and liability insurance 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 6.11 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 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

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.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 ..... *Owner's Liability Insurance*

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

5.06 ..... ~~Each and every one of~~

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

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage,

(other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

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

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other 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, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.



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

5.07 .....

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to

Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 .....

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order .

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 .....

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

other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 .....

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

**ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

6.01 .....

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. 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 .....

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed

during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 .....

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

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

6.04 .....

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 .....

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or

is followed by words reading that no like, equivalent, or “or-equal” item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. “*Or-Equal*” Items: If in Engineer’s sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an “or-equal” item, in which case review and approval of the proposed item may, in Engineer’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole,

3) it has a proven record of performance and availability of responsive service; and

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

## 2. Substitute Items

a. If in Engineer’s sole discretion an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine 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 requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor’s achievement of Substantial Completion on time;

b) whether 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 other work on the Project) to adapt the design to the proposed substitute item; and

c) 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;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item,

including costs of redesign and claims of other contractors affected by any resulting change,

*B. Substitute Construction Methods or Procedures:*

If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

*C. Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by 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 Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

*F. Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 .....

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. 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:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, 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, 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 .....

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 .....

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and

licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 .....

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

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

6.10 .....

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

6.11 .....

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or

occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

*C. Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

*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 .....

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

6.13 .....

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.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or , 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...any...individual or entity directly or indirectly employed by any of them).

D. 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 .....

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 and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples*: Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

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

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

b. the suitability of 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 Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. 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 certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of

Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

*E. Resubmittal Procedures*

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

6.18 .....

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 .....

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 .....

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend, hold harmless, and hold the Work Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the



survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

- 1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
- 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 .....

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

**ARTICLE 7 - OTHER WORK AT THE SITE**

7.01 .....

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via 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 *Delegation of Professional Des*

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, 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. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays,

defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 .....

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

- 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
- 2. the specific matters to be covered by such authority and responsibility will be itemized; and
- 3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 .....

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

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

**ARTICLE 8 - OWNER'S RESPONSIBILITIES**

8.01 .....

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

8.02 .....

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 .....

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

8.04 ..... *Coordination*

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

8.05 .....

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

8.06 .....

A. Owner's responsibilities, if ~~Legal Relationships~~ *Legal Relationships* purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 .....

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

8.08 .....

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

8.09 .....

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~~ *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 ..... *Replacement of Engineer*

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

8.11 .....

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 .....

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 .....

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 .....

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer

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

9.04 .....

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties available Site 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.

9.05 .....

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

9.06 .....

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

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

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

9.07 ..... B. ~~Engineer will not supervise, direct or control~~ *Director* ~~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.

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..... *Decisions on Requirements of C*

9.08 ..... *Decisions on Requirements of C*

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

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.

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

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

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

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

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

10.01 ..... *Limitations on Engineer's Auth*

9.09 ..... *Limitations on Engineer's Auth*

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.

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

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 ..... *Limitations on Engineer's Auth*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or

supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 .....

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

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 .....

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 .....

A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be

delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B.

A Claim for an adjustment in Contract 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).

C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

**ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

11.01 .....

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on

the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's

employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

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

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

11.02 .....

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

B. *Cash Allowances*

1. Contractor agrees that:

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

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 .....

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

**ARTICLE 12 - CHANGE OF CONTRACT PRICE;  
CHANGE OF CONTRACT TIMES**

12.01 .....

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

~~d. no fee shall be payable on the basis of Costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;~~

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 .....

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 .....

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be



extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

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

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

13.01 .....

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 .....

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, 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 .....

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

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

13.04 .....

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 .....

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

13.06 .....

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all Work costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 .....

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or
2. correct such defective Work; or
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

*Owner May Stop the Work*

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications .

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08.....Contractor, and a Change Order will be issued in respect of Defective Work

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

13.09.....Contractor 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.

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In

connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued in respect of Defective Work the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

**ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION**

14.01.....

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.....

**A. Applications for Payments**

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as

of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

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

#### *B. Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations 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 9.07, and to any other qualifications stated in the recommendation); and
- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
- b. 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:

- a. to supervise, direct, or control the Work, or
- b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
- c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
- d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
- e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

*C. Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer’s recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

*D. Reduction in Payment*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

- a. claims have been made against Owner on account of Contractor’s performance or furnishing of the Work;
- b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
- c. there are other items entitling Owner to a set-off against the amount recommended; or
- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor 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 .....

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 .....

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor’s notification, , Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner’s objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer’s issuing the definitive certificate of Substantial Completion, Engineer’s aforesaid recommendation will be binding on Owner and Contractor until final payment.

*Contractor’s Warranty of Title*

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 ..... *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor’s performance of the remainder of the Work, subject to the following conditions.

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

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

- a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;
- b. consent of the surety, if any, to final payment;
- c. a list of all Claims against Owner that Contractor believes are unsettled; and
- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner’s property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

*B. Engineer’s Review of Application and Acceptance..... Final Inspection*

14.06 ..... *Acceptance..... 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.

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 ~~for Owner’s review~~ ~~for payment~~. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable

14.07 ..... *Application for Payment*

A. Application for Payment

subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

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

14.08 .....15.02 .....*Final Completion Delayed*.....

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 .....~~any provisions of the Contract Documents~~ *Waiver of Claims*.....

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

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

**ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION**

15.01 .....

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

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~~ *Waiver of Claims*

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety ) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 .....

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 .....

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Time or Multiple Terminate For Con for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

**ARTICLE 16 - DISPUTE RESOLUTION**

16.01 .....

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall have the effect of Paragraph 10.05.E.



B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer’s action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

- 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or
- 2. agrees with the other party to submit the Claim to another dispute resolution process, or
- 3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

**ARTICLE 17 - MISCELLANEOUS**

17.01 ..... *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

- 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or
- 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 ..... *Computation of Times*

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

17.03 ..... *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as

effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 .....

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

17.05 .....

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

17.06 .....

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

## SECTION 00720

### SUPPLEMENTARY CONDITIONS

The following Supplementary Conditions amend or supplement the Standard General Conditions of Construction, Section 00700. All other provisions not amended or supplemented remain in full force and effect. Note: SC-followed by a number (such as 2.02 etc.) are keyed to the paragraph numbers of the Standard General Conditions, Section 00700.

SC-2.02 Copies of Documents: Replace the first sentence dealing with up to 10 copies of documents to read “Owner shall furnish to Contractor number of copies of Drawings and Project Manual as indicated in the Notice to Proceed.”

SC-5.04 Contractor’s Liability Insurance: Requirements shall be as per City’s General Insurance Requirements.

SC-5.04B(1) Additional Insured’s:

1. The City of Naples  
(as per City General Insurance Requirements)
2. Kris Jain & Assoc., Inc.  
Engineer  
4439 Lakewood Blvd.  
Naples, FL 3411
3. HSA Engineers  
a.k.a. Anchor Engineering Consultants, Inc.  
1520 Royal Palm Square, Suite 260  
Fort Myers, FL 33919

SC-5.06 Property Insurance (Property Insurance at the work site). Replace words in first sentence “...Owner shall purchase...” with the words “**Contractor shall purchase.**”

SC-5.10 Partial Utilization Insurance: As per City’s General Insurance Requirements.

SC-6.20 Indemnification: Contractor shall indemnify and hold harmless Owner, and Engineer, and officers, directors, partners, employees, agents, consultants and sub contractors of each and any of them from and against all claims damages, losses and expenses including attorney fees arising out of any act or omissions of the Contractor resulting from the performance of his Work. The Contractor hereby acknowledges receipt of ten dollars and other valuable considerations from the Owner and Engineer as specific consideration for the indemnification.

SC-13.03B Replace the first sentence with “**Contractor shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents.**”

END OF SECTION

BLANK PAGE

SECTION 00842/ 00920

NOTICE TO PROCEED FORM

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

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

Re: Notice to Proceed on Project: **City of Naples, Motor Vehicle Service Bays #7 & #8, Renovations and Additions.**

You are hereby notified that the Contract Time and **Commencement Date** under the above contract will commence to run on \_\_\_\_\_. On that date you are to start performing the work and your other obligations under the Contract Documents. Based on the Contract Time stated in the Agreement, the dates of **Substantial Completion** and **Final Completion** are calculated as \_\_\_\_\_, and \_\_\_\_\_ respectively.

Two (2) sets of Drawings and two bound copies of the Project Manual shall follow under separate cover. The Project Manual contains the following documents:

- Instructions to Bidders
- Bid Form
- Bid Bond
- Executed Agreement
- Payment Bond
- Performance Bond
- Certificates of Insurance
- Notice of Award
- Specifications
- Addenda Numbers \_\_\_\_\_ through \_\_\_\_\_

By:

\_\_\_\_\_

City of Naples, Florida

**One Copy to the Engineer**  
**Kris Jain & Assoc., Inc**  
(including 1 copy of above documents )

SECTION 00843

CONTRACTOR'S APPLICATION FOR PAYMENT FORMS  
EJCDC document NO. C-620 (2002 Edition)  
( Document not attached. Available after bid award.)

# Change Order Exhibit E

No. \_\_\_\_\_

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Project: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_

Contract: \_\_\_\_\_ Owner: \_\_\_\_\_ Date of Contract: \_\_\_\_\_

Contractor: \_\_\_\_\_ Engineer's Project No.: \_\_\_\_\_

**The Contract Documents are modified as follows upon execution of this Change Order:**  
 Description: \_\_\_\_\_

**Attachments:** (List documents supporting change): \_\_\_\_\_

<p><b><u>CHANGE IN CONTRACT PRICE:</u></b></p> <p>Original Contract Price:</p> <p style="margin-left: 40px;">\$ _____</p> <p>[Increase] [Decrease] from previously approved Change Orders NO. _____ to No. _____</p> <p style="margin-left: 40px;">\$ _____</p> <p>Contract Price prior to this Change Order:</p> <p style="margin-left: 40px;">\$ _____</p> <p>[Increase] [Decrease] of this Change Order:</p> <p style="margin-left: 40px;">\$ _____</p> <p>Contract Price incorporating this Change Order:</p> <p style="margin-left: 40px;">\$ _____</p>	<p><b><u>CHANGE IN CONTRACT TIMES:</u></b></p> <p>Original Contract Times:      Working days      Calendar days</p> <p>Substantial completion (days or date): _____</p> <p>Ready for final payment (days or date): _____</p> <p>[Increase] [Decrease] from previously approved Change Orders NO. _____ to No. _____:</p> <p>Substantial completion (days): _____</p> <p>Ready for final payment (days): _____</p> <p>Contract Times prior to this Change Order:</p> <p>Substantial completion (days or date): _____</p> <p>Ready for final payment (days or date): _____</p> <p>[Increase] [Decrease] of this Change Order:</p> <p>Substantial completion (days or date): _____</p> <p>Ready for final payment (days or date): _____</p> <p>Contract Times with all approved Change Orders:</p> <p>Substantial completion (days or date): _____</p> <p>Ready for final payment (days or date): _____</p>
--	--

<p><b>RECOMMENDED:</b></p> <p>By: _____</p> <p>Date: _____</p> <p style="margin-left: 40px;">Engineer (Authorized Signature)</p>	<p><b>ACCEPTED:</b></p> <p>By: _____</p> <p style="margin-left: 40px;">Owner (Authorized Signature)</p> <p>Date: _____</p>	<p><b>ACCEPTED:</b></p> <p>By: _____</p> <p>Date: _____</p> <p style="margin-left: 40px;">Contractor (Authorized Signature)</p>
<p>Approved by Funding Agency (if applicable): _____</p>		
<p>Date: _____</p>		

# Change Order Instructions

## A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

## B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

SECTION 00850

FIELD ORDER

<input type="checkbox"/> OWNER:	_____	No. Copies	_____	
<input type="checkbox"/> ENGINEER:	_____	No. Copies	_____	
<input type="checkbox"/> ARCHITECT:	_____	No. Copies	_____	FIELD ORDER
<input type="checkbox"/> CONTRACTOR:	_____	No. Copies	_____	NO. _____
<input type="checkbox"/> FIELD:	_____	No. Copies	_____	
<input type="checkbox"/> OTHER:	_____	No. Copies	_____	

PROJECT DATA

CONTRACT DATA

NAME: \_\_\_\_\_  
 LOCATION: \_\_\_\_\_  
 OWNER: \_\_\_\_\_  
 OTHER: \_\_\_\_\_

NUMBER: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 DRAWING NO.: \_\_\_\_\_  
 SPECIFICATION SECTION: \_\_\_\_\_

To: (Contractor)

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

You are hereby directed to execute promptly this Field Order which interprets the Contract Documents or orders minor changes in the Work without change in Contract Sum or Contract Time.

If you consider that a change in Contract Sum or Contract Time is required, please submit your itemized proposal to the Engineer immediately and before proceeding with this Work. If your proposal is found to be satisfactory and in proper order, this Field Order will in that event be superseded by a Change Order.

Description (of interpretation or change): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



Attachments (listing of attached documents that support description):

1. Contractor Request for information No.: \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Kris Jain & Associates, Inc.

Project No: \_\_\_\_\_

BY: \_\_\_\_\_

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

END OF SECTION

00850-2



SECTION 00860

WORK DIRECTIVE FORM  
(Furnished after bids)

**SECTION 00980**

**CONTRACTOR'S RELEASE OF LIEN**

Before me, the undersigned authority in said County and State, appeared \_\_\_\_\_, who being first duly sworn, deposes and says that he is \_\_\_\_\_ of \_\_\_\_\_ a company and/or corporation authorized to do business under the laws of Florida, which is the contractor on Project known as City of Naples, \_\_\_\_\_, Bid No. \_\_\_\_\_, located in the City of Naples, County of Collier, Florida, under contract with the City of Naples, dated the \_\_\_\_\_ day of \_\_\_\_\_, 200 , that the said deponent is duly authorized to make this affidavit by resolution of the Board of Directors of said company and/or corporation; that deponent knows of his own knowledge that said contract has been complied with in every particular by said contractor and that all parts of the work have been approved by the City Engineer; that there are no bills remaining unpaid for labor, material or otherwise, in connection with said contract and work, and that there are no suits pending against the undersigned as contractor or anyone in connection with the work done and materials furnished or otherwise, under said contract.

Deponent further says that the final estimate which has been submitted to the City simultaneously with the making of this affidavit, constitutes all claims and demands against the City on account of said contract or otherwise, and that acceptance of the sum specified in said final estimate will operate as a full and final release and discharge of the City from any further claims, demands or compensation by contractor under the above contract.

Deponent further agrees that all guarantees under this contract shall start and be in full force from the date of this release as spelled out in the contract documents.

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

Printed Name: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF                )

Signed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
by \_\_\_\_\_ who is personally known to me or has produced  
\_\_\_\_\_ as identification.

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

My Commission Expires:  
Commission Number:

WE, the \_\_\_\_\_, having heretofore executed a performance bond

and a payment bond for the above named contractor covering project and section as described above in the sum of (\$ \_\_\_\_\_) \_\_\_\_\_ Dollars, hereby agree that the Owner may make full payment of the final estimate, including the retained percentage, to said contractor.

IT IS fully understood that the granting of the right to make the payment of the final estimate to said contractor and/or his assigns, shall in no way relieve this surety company of its obligations under its bonds, as set forth in the specifications, contract, and bonds pertaining to the above project.

IN WITNESS WHEREOF, the \_\_\_\_\_ has caused this instrument to be executed on its behalf by its \_\_\_\_\_, and/or its duly authorized attorney in fact, and its corporate seal to be hereunto affixed, all on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2007.

\_\_\_\_\_  
Surety Company

\_\_\_\_\_  
Attorney in Fact

Power of Attorney must be attached if executed by Attorney in Fact.

STATE OF FLORIDA        )  
COUNTY OF                )

BEFORE ME, the undersigned authority, appeared \_\_\_\_\_ who is personally known to me or has produced \_\_\_\_\_ as identification, and who executed the foregoing instrument in the name of \_\_\_\_\_ as its \_\_\_\_\_ and the said \_\_\_\_\_ acknowledged that he executed said instrument in the name of \_\_\_\_\_ as its \_\_\_\_\_ and/or \_\_\_\_\_, for the purpose therein expressed and that he had due and legal authority to execute the same on behalf of said \_\_\_\_\_, a corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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

My Commission Expires:  
Commission Number:

# SHOP DRAWING TRANSMITTAL

**(Engineer or Architect) TO:** \_\_\_\_\_  
**(Address)** \_\_\_\_\_  
**(City, State Zip)** \_\_\_\_\_  
 (Contact) \_\_\_\_\_ ATTN: \_\_\_\_\_  
**(Contractor Name)** \_\_\_\_\_  
**From:** \_\_\_\_\_

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

ENGINEER PROJECT NO. \_\_\_\_\_ OWNER PROJECT NO. \_\_\_\_\_ CONTRACTOR PROJECT NO. \_\_\_\_\_

SUBMITTAL NO.	COPIES	DESCRIPTION	PREVIOUS SUBMITTAL NO.	SPEC. SECTION NO.	REF. PLAN SHEET NO.

SUBMITTED BY: \_\_\_\_\_ CONTRACTOR \_\_\_\_\_ DATE \_\_\_\_\_

SUBMITTAL RETURN (TO BE COMPLETED BY ENGINEER)				
SUBMITTAL NO.	COPIES	RESUBMIT		COMMENTS
		YES	NO	

COPY: \_\_\_\_\_ RETURNED BY: \_\_\_\_\_



## **DIVISION 1 - GENERAL REQUIREMENTS**



## SECTION 01010

### SCOPE OF WORK AND SUMMARY

#### PART 1 – GENERAL

##### 1. RELATED DOCUMENTS

- a) Drawings, General Conditions, Supplementary Conditions and Special Conditions of the Contract, including any Standard Special Provisions and other Specifications, apply to the Work of this Section.

##### 2. PROJECT DESCRIPTION

- a) Summary: The Project entails Renovations and Construction of Motor Vehicle Service Bays #7 and #8 as indicated on the Contract Documents including the Drawings and Specifications. The work is summarized as follows:

Additions involve extending the existing air line and installation of a temporary compressed air connection in Service Bay #8, bypassing the existing air compressor with a valve and maintenance (by Owner) of air and product supplies to this bay and all other service bays #1-#6 during new work. Demolition of existing outside compressor room and appurtenances, construction of a new one story outside oil storage and compressor facility, installation of a new Owner furnished compressor, relocation of the four interior oil storage tanks to the new facility, including installation of new air and product piping connected to the existing inside piping risers; installation of lighting, dry and wet fire protection system etc.

Renovations involve replacement of existing four (4) OH doors with new RC doors, selective demolition of existing service bay floors, demolition of service pit top and filling it with a flow-able fill etc. and replacing them with new reinforced concrete floor slabs, special floor coating; relocation of eyewash, replacement of existing wash fountain with a new SS wash fountain, associated plumbing, piping etc. All Additions and Renovation work shall be as specified and shown on the drawings.

Fire Alarm system will be furnished and installed concurrently under a separate contract

- b) Special Construction Sequence: The main objective is to complete the proposed construction in an efficient and timely manner with minimum disruption and down time to the on-going Owner's (City) MV service bay operations. See plans for general sequence of construction and special requirements.
- ##### 3. WORK UNDER SINGLE PRIME CONTRACT
- a) The intent of this Section is to indicate the Work required by the contractors and to provide information regarding the duties, responsibilities, and cooperation required by the contractors, with similar requirements for the subcontractors and suppliers.

- b) The "Contract Documents," as defined in the General Conditions, include "the Drawings." Although Drawings are grouped and identified by classification of the Work, contractors

shall be responsible for their Work as specified herein and as indicated on the Drawings. Although the majority of the Drawings are "to scale," contractors are directed to use indicated dimensions for determining material quantities and for other reasons. No additional monies will be allowed due to contractors using "scale instruments" to determine material quantities or for other reasons.

- c) Work for the complete construction of the Project will be under a single prime contract with the Owner.

#### 4. WORK BY OWNER

- a) Temporary Compressor: Owner will furnish and hookup a Temporary Air Compressor to the extended air line and maintain the air compressor and all the product supply lines to the existing Motor Vehicle Service Bays #1 through #8. The General Contractor shall extend the existing airline with a chuck fitting and isolation valve as indicated and shown on the drawings for the temporary air compressor connection.
- b) Fire Alarm System: A Specialty Contractor under a separate contract will concurrently design, furnish and install the required Fire Alarm System. The General Contractor shall coordinate his work with this Specialty Contractor.
- c) Sod & Irrigation System: Owner will furnish and install the necessary sod and site irrigation sprinklers system. Contractor shall coordinate his work with the Owner's staff..

#### 5. ADMINISTRATIVE RESPONSIBILITIES OF PRIME CONTRACTOR

- a) The General Prime Contractor shall be responsible for the maintenance of the Construction Schedule and the general supervision of every phase of the Work,
  - 1) Requirements for a specific trade of contract will generally be described in that portion of the Specifications or Drawings related to that trade or contract. Such requirements may however, be described in other Sections of the Contract Documents. Contractors will be held responsible for having carefully examined all Drawings and read all Sections of the Specifications and all Contract Documents, to avoid omissions or duplications, and to ensure a complete job.
  - 2) Each contractor must be fully informed about conditions relating to the construction of the Project and the employment of labor thereon. Failure to do so will not relieve a contractor of his obligation to furnish all material and labor necessary to carry out the provisions of his Contract.
  - 3) Subcontractors shall cooperate with the General Prime Contractor in notifying him when the Work is at a stage to require the services of other contractors and shall notify the General Prime Contractor in the event that such other contractors do not carry out their responsibilities in connection with such notification.
- b) Subcontractors shall cooperate with and assist the General Prime Contractor in the preparation of construction progress and procedures, schedule of product deliveries, and their effect on the overall project progress and completion. Other contractors shall cooperate in getting their Work and the Work of their subcontractors completed according to the schedule as prepared and maintained by the General Prime Contractor.

Each contractor shall immediately notify the General Prime Contractor of a delay in delivery of products or the scheduled date of completion that may affect the total progress of construction.

- c) Contractors required to make connections to existing utilities, especially sewerage where gravity flow occurs, shall verify grades and locations at points of such connections and shall notify the Engineer/Architect of circumstances which would adversely affect the proper flow or connection to such facilities.

## 6. CONTRACTOR USE OF PREMISES

- a) General: During the construction period the contractors shall have limited usage of the subject service bays #7 & #8 when in operational use by the City staff. During the construction period the Contractor and his subs shall not use at any time any other MV facilities including the break and rest rooms. After completion and hook up of the outside Compressor and oil storage facility the use of #7 & #8 bays will be available for remodeling purposes to the Contractor. All work shall be coordinated with the City staff to prevent interruption of the on-going vehicle service operations.

### b) Temporary Utilities:

- 1) Toilets: Provide for sanitary portable toilets at the project site for use by workmen at a location designated by the Owner's Project Manager. Owners toilets shall not be used at any time.
- 2) Water and Electrical Power: City will provide taps for Water and Electrical Power to the Contractor for construction usage. Contact the City's Project Manager.
- 3) Telephone: Provide for a temporary phone connection and service for Work related phone calls at a location approved by the City.

- c) Limit use of the premises to construction activities in areas indicated or approved by the Owner's Project Manager.

- 1) Confine operations to areas within Contract limits indicated. Portions of the site beyond areas in which construction operations are indicated are not to be disturbed.
- 2) Keep driveways and entrances serving the City facilities, clear and available to Owner's employees and operations at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.
- 3) Each contractor shall limit his use of the premises for work and for storage, to allow for work by other contractors and Owner occupancy of adjacent buildings or building areas.
- 4) Coordinate use of the premises, under direction of the Engineer and Owner's representative.
- 5) Each contractor shall assume complete responsibility for the protection and safekeeping of products under this Contract, stored on the site.

- 6) Each contractor shall move his stored products which interfere with operation of the Owner or other contractors.
- 7) Each contractor shall obtain and pay for the use of additional storage of work areas needed for operation.
- 8) Additional parking for the contractor's and sub-contractor(s) employees shall be as authorized and designated by the City Project Manager.

## 7. GRADES, LINES, LEVELS

- a. Information pertaining to preliminary investigations, such as test borings, location of utilities, existing structures, and existing grades appear in the Project Manual or on the Drawings. While such data has been collected with reasonable care, there is no expressed or implied guarantee that conditions so indicated are entirely representative of those actually existing or that unforeseen developments may not occur. The contractor must apply his own interpretation on results of such investigation and shall satisfy himself as to the materials to be excavated and materials upon which fill or other work may be placed. Where underground services, utilities, structures, etc., are located on the Drawings or given at the site, they are based on available records, but are not guaranteed to be complete or correct. They are merely given to assist each contractor.
- b. The General Prime Contractor shall immediately, upon entering the site for the purpose of beginning work, locate general reference points and take such action as is necessary to prevent their destruction. The contractor shall lay out his own work and be responsible for all lines, elevations, and measurements of the building, utilities, and other work executed by him under the Contract, he must exercise proper precaution to verify figures on the Drawings before laying out work and will be held responsible for any error resulting from his failure to exercise such precaution.
- c. Each contractor shall verify grades, lines, levels, locations, and dimensions as shown on Drawings, and report any errors or inconsistencies to the Engineer for resolution before commencing work. Starting of work by the contractor shall signify his acceptance.

## 8. TAXES

- a) Taxes which the contractor must pay which are legally enacted at the time bids are received, whether or not effective, shall be paid by the contractor.

## 9. PERMITS, FEES, AND NOTICES

- a) The General Prime Contractor shall secure the general building construction permit for the Owner. Each contractor shall secure and pay for other permits, governmental fees, and licenses necessary for the proper execution and completion of his Work, which are applicable at the time the bids are also received. Fees to relocate utilities on Owner's property shall be included in the bid of the contractor doing the relocation. Each contractor shall be responsible for contacting the local governing agency for such cost information and requirements.
- b) Utility Tie-ins: Shall be arranged with local utility company and other involved parties for minimum interruption of service.

- c) Inspections of installed work shall be performed by the governing authority as arranged for by the contractor. Work shall not be covered until approved.
- d) Each contractor shall give notices and comply with laws, ordinances, rules, regulations, and orders of public authorities bearing on the performance of his Work. If a contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Engineer in writing, and necessary changes shall be adjusted by appropriate notification. If a contractor performs Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Engineer, he shall assume full responsibility therefore and shall bear the costs attributable thereto.

10. LABOR AND MATERIALS

- a. Unless otherwise specifically noted, each contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of his Work, whether temporary or permanent and whether or not incorporated or to be incorporated at the Work.
- b. Each contractor shall enforce strict discipline and good working order among his employees or other persons carrying out Work of his Contract and shall not permit employment of unfit person or persons or anyone not skilled in the task assigned to them.

11. PROJECT COORDINATION

- a. The General Prime Contractor shall provide full-time, on-site supervision to coordinate all aspects of his Work with other contractors' Work. It shall be the full responsibility with all phases of Architectural, Structural, Mechanical (including Plumbing), Electrical Work, Site Work, Special Equipment, and other separate subcontract Work etc.. All separate contractors shall fully cooperate with each other and the Engineer.
- b. Each contractor shall coordinate the performance of his subcontractors in the utilization of the site, as well as in the actual performance of their contractual obligations to the Owner.
- c. Each subcontractor shall cooperate with the General Prime Contractor and all other contractors that may be employed by the Owner.
- d. Each contractor shall verify all dimensions shown on the Drawings and obtain all measurements required for proper execution of Work.
- e. Each contractor shall see that sleeves and inserts for pipes, conduits, and similar items shall be correctly place and kept in their proper positions in forms, walls, partitions, and floors, and not displaced by the placing of concrete or other construction work. All items shall be placed in ample time so as not to delay concrete operations. Do not place sleeves so they pass vertically through beams, girders, and similar construction, unless locations are approved by the Engineer. Locations of chases are indicated in the mechanical and electrical drawings. The separate contractor and/or subcontractor of the Work involved shall be responsible for inclusion of these items in the work, and shall advise the contractor and Engineer of all required changes.

- f. Before commencing work, each contractor shall examine all spaces, surfaces, and areas indicated on the Drawings to receive their Work. Report necessary corrections in writing immediately to the Engineer. Do not proceed until corrections (if any required) have been made. Commencing work signifies this contractor's acceptance of said spaces, surfaces, and areas, and of job conditions.
- g. Special Equipment, Other Equipment
  - 1) Copies of Equipment Specifications and Drawings shall be made available to the Architectural Trade Contractors, Mechanical Contractor, and Electrical Contractor for information by which they shall determine the amount of Work to be done as described herein.
  - 2) As the building project nears completion, certain areas may be made ready to accept the equipment intended for them.
  - 3) The contractor shall cooperate with the suppliers' installation personnel by providing unobstructed areas in which they may assemble and install equipment. These areas shall be adequately provided with temporary or permanent power available for tools or testing purposes.
- h. Temporary Omission of Work
  - 1) If any materials and finish are of such nature that it is necessary to temporarily omit certain portions of work (as illustrated on Drawings or specified in Specifications) in order to make final installation, the contractor whose work is involved shall omit such parts of this work or finish as necessary until other said work and/or materials have been installed and shall then return and install such omitted parts of his work as part of this Contract and without additional cost to the Owner.

## 12. TESTS AND ADJUSTMENTS

- a) If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the contractor shall give the Engineer 48 hours advance notice so he may observe such inspection, testing, or approval. The contractor shall bear all costs of such inspections, tests, or approvals conducted by or for public authorities.
- b) The complete installation of piping, wiring, and working components, including all operating equipment and systems, shall be subjected to test at full operating conditions. The contractor shall make all necessary adjustments and/or replacements which are necessary to fulfill the requirements of the Contract Documents, and to comply with all codes and regulations which may apply to the entire installation. The complete installation shall be left ready in all respects for use by the Owner. The contractor shall bear all costs of such testing and adjustments.
- c) Unless otherwise indicated, the Contractor shall pay for all required testing and inspection services.

## 13. VERIFICATIONS OF DIMENSIONS

- a) When verification of dimensions is required, the contractor requiring said verification for

the construction or fabrication of his material shall be the contractor responsible for procurement of the field information.

14. PROJECT SECURITY

- a) The General Prime Contractor shall be responsible for developing and conducting a security program, specifically oriented for the protection of preventing damage, injury, or loss to the entire project site and other property at the site or adjacent thereto. This shall be acceptable to the Owner and Engineer, and shall remain in effect through Substantial Completion and Final Completion of the Project.
- b) Each contractor shall be responsible for securing his work and equipment at the close of each workday.

15. PROJECT STANDARDS

- a) All utility construction shall be in accordance with Collier County Utility Standards Manual latest edition (May, 2004). (Collier County Utilities Standards and Procedures Ordinance 2004-31) (Water, Sanitary Sewer, Fire Hydrant, etc. are covered under Utilities.)

END OF SECTION

## SECTION 01020

### ALTERNATES

#### PART 1 – GENERAL

##### 1. GENERAL

- a) Alternates allow the Owner to compare total costs where alternative materials and methods might be used, and to enable the Owner's decision prior to awarding the Contract, certain alternatives have been established as described in this Section of these Specifications.
- b) Required alternatives are worded briefly. Claims for additional compensation will not be granted because of manifest omissions or discrepancies due to the brevity. Pertinent Sections of these Specifications describe the materials and methods required under the various alternatives.
- c) Each bidder shall submit with his proposal in the space provided on the Bid Proposal Form alternative proposals stating the additions or deductions from the base bid lump sum amount for substituting, omitting, adding, changing, or altering materials, equipment, or construction from that shown on the Drawings or specified.
- d) The difference in cost shall include omissions, changes, alterations, additions, and adjustments of trades as may be necessary because of each addition, substitution, omission, change, or alteration.
- e) If the Owner elects to proceed on the basis of one or more of the alternatives, make modifications to the Work required in the furnishing and installation of the selected alternative or alternatives to the approval of the Engineer and at no additional cost to the Owner other than as proposed on the Bid Proposal Form.

##### 2. SUMMARY

- a) This Section specifies administrative and procedural requirements for Alternates.
- b) Definition: An Alternate is an amount proposed by Bidders and stated on the Bid Form for certain construction activities defined in the Bidding Requirements that may be added to or deducted from Base Bid amount if the Owner decides to accept a corresponding change in either the amount of construction to be completed, or in the products, materials, equipment, systems or installation methods described in Contract Documents.
- c) Coordination: Coordinate related Work and modify or adjust adjacent Work as necessary to ensure that Work affected by each accepted Alternate is complete and fully integrated into the project.
- d) Notification: Immediately following the award of the Contract, prepare and distribute to each party involved, notification of the status of each Alternate. Indicate whether Alternates have been accepted, rejected or deferred for consideration at a later date. Include a complete description of negotiated modifications to Alternates.

##### 3. EXECUTION



a) Install in accordance with referenced specification Sections.

END OF SECTION

## SECTION 01030

### REFERENCE STANDARDS AND DEFINITIONS

#### 1. RELATED DOCUMENTS

- a. Drawings, General Conditions, Supplementary Conditions, Special Conditions of the Contract, including any Standard Special Provisions and other Specification Sections, apply to this Section.

#### 2. DEFINITIONS

- a. General: Basic contract definitions are included in the General Conditions of the Contract. Following are definition of additional terms used in the contract documents:
- b. "Approved": The term "approved," when used in conjunction with the Engineer's action on the Contractor's submittals, applications, and requests, are limited to the Engineer's duties and responsibilities as stated in the Conditions of the Contract.
- c. "Contractor": The term "contractor," "Contractor," "construction manager," or "Construction Manager" describes to entity who has a signed agreement with the Owner as the primary entity contracted to perform the Work. The terms are used inter-changeably within this document.
- d. "Directed": Terms such as "directed," "requested," "authorized," "selected," "approved," "required," and "permitted" mean directed by the Engineer, requested by the Engineer, and similar phrases.
- e. "Furnish": The term "furnish" means to supply and deliver to the Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- f. "Indicated": The term "indicated" refers to graphic representations, notes, or schedules on the Drawings; or to other paragraphs or schedules in the Specifications and similar requirements in the Contract Documents. Terms such as "shown," "noted," "scheduled," and "specified" are used to help the user locate the reference. Location is not limited.
- g. "Install": The term "install" describes operations at the Project site including the actual unloading, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- h. "Installer": An installer is the Contractor or another entity engaged by the Contractor, either as an employee, subcontractor, or contractor of lower tier, who performs a particular activity including installation, erection, application, or similar operations. Installers are required to be experienced in the operations they are engaged to perform.
- i. "Project site" is the space available to the Contractor for performing installation activities, either exclusively or in conjunction with others performing work as part of the Project.
- j. "Provide": The term "provide" means to furnish and install, complete and ready for the intended use.

- k. "Regulations": The term "regulations" includes laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the industry that control performance of the Work.
  - 1) The term "experienced," when used with the term "installer," means having successfully completed a minimum of 5 previous projects similar in size and scope to this Project; being familiar with the special requirements indicated; and having complied with requirements of authorities having jurisdiction.
  - 2) Trades: Using terms such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter," It also does not imply that requirements specified apply exclusively to trades-people of the corresponding generic name.
- l. "Testing Agencies": A testing agency is an independent entity engaged to perform specific inspections or tests, either at the Project site or elsewhere, and to report on and, if required, to interpret results of those inspections or tests.

### 3. SPECIFICATION FORMAT AND CONTENT EXPLANATION

- a. Specification Format: These Specifications are organized into Sections to provide ease of reference.
- b. Specification Content: These Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
  - 1) Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be interpolated as the sense requires. Singular words will be interpreted as plural and plural words interpreted as singular where applicable as the context of the Contract Documents indicates.
  - 2) Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by the Contractor. At certain locations in the Text, subjective language is used for clarity to describe responsibilities that must be fulfilled indirectly by the Contractor or by others when so noted.
    - a) The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

### 4. INDUSTRY STANDARDS

- a. Applicability of Standards: Unless the Contract Documents (including Plans & Specifications) include more stringent requirements, applicable industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.

- b. Publication Dates: Comply with the standards in effect as of the date of the Contract Documents, unless otherwise indicated.
- c. Conflicting Requirements: Where compliance with 2 or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different but apparently equal to the Engineer for a decision before proceeding.
  - 1) Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of the requirements. Refer uncertainties to the Engineer for a decision before proceeding.
- d. Copies of Standards: Each entity engaged in installation on the Project must be familiar with industry standards applicable to its installation activity. Copies of applicable standards are not bound with the Contract Documents.
  - 1) Where copies of standards are needed to perform a required installation activity, obtain copies directly from the publication source and make them available on request.
- e) Abbreviations and Names: Trade association names and titles of general standards are frequently abbreviated. Where abbreviations and acronyms are used in the Specifications or other Contract Documents, they mean the recognized name of the trade association, standards-generating organization, authorities having jurisdiction, or other entity applicable to the context of the text provision. Refer to Gale Research Inc.'s "Encyclopedia of Associations," which is available in most libraries.

## 5. SUBMITTALS

- a. Permits, Licenses, and Certificates: For the Engineer and Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

END OF SECTION

## SECTION 01040

### PRECEDENCE AND CONFLICT PROCEDURES & INTENT

#### PART 1 – GENERAL

##### 1. RELATED DOCUMENTS

- a. Drawings and General Provisions of Contract, including General and Supplementary Conditions and other Specification Sections, apply to this Section.

##### 2. SUMMARY

- a. This Section specifies special precedence and conflict procedures and intent.

##### 3. PRECEDENCE AND CONFLICT PROCEDURES

- a. If there should be a conflict between two or more of the Contract Documents, the following order of interpretation shall apply:
  - 1) The terms and conditions as set forth in the Bidding Requirements, including legal advertisement thereof, shall have full force and effect until such time as the City's Standard Contract or Agreement between Owner and Contractor is executed.
  - 2) Where there is a conflict between the Bidding Requirements and the Contract Documents, the Contract Documents shall govern.
  - 3) Where there is conflict between the City's General Conditions and the Standard General Conditions of Construction, the City's General Conditions shall govern.
  - 4) Where there is conflict between the Drawings and Specifications and conflict within the Drawings or within the Specifications, the conflict, where applicable, shall be resolved by providing better quality or greater quantity as further provided herein and the more stringent of the requirement shall apply.
- b. Where there is a conflict in or between the Drawings and Specifications, the Contractor shall be deemed to have estimated on the more expensive way of doing the Work and the larger quantity required and the more stringent requirement shall apply. Only changes or interpretations covered by Addenda or written from the Engineer will be permitted during construction of the Work. The Contractor shall perform no portion of the Work at any time without Contract Documents or where required, approved Shop Drawings, Product Data, or Samples for such portion of the Work.

##### 4. INTENT

- a. It is the intent of the Contract Documents to accomplish a complete and first-grade construction and installation in which there shall be installed only new materials and products of the latest and best design and manufacturer, and workmanship shall be thoroughly first class, executed by competent and experienced workmen.

- 1) Details of preparation, construction, installation, and finishing encompassed by the Contract Documents shall conform to the best practices of the respective trades, and that workmanship, construction methods, shall be of first class quality so as to accomplish a neat and first class finished job.
- 2) Where specific recognized standards are mentioned in the Specifications, it shall be interpreted that such requirements shall be complied with.
- 3) The intent of the Contract Documents is to include all labor, equipment, and materials necessary for the proper and timely execution and completion of the Work, even though such labor, equipment, materials are not expressly included in the Contract Documents.
- 4) The Contract Documents are complimentary, and what is required by one will be as binding as if required by all.
- 5) The Contractor will be required to perform all parts of the Work, regardless of whether the parts of the Work are described in Sections of the Contract Documents applicable to other trades.

END OF SECTION

## SECTION 01050

### REQUEST FOR INFORMATION (RFI) PROCEDURES

#### PART 1 – GENERAL

1. **RELATED DOCUMENTS:** Drawings and General Provisions of Contract, including Standard Special Provisions and other Specification Sections, apply to this Section.
2. **SUMMARY:** This Section specifies Requests for Information (RFI) procedures.
3. **DEFINITIONS**
  - a. **Drawing/Plan Clarification:** An answer from the Engineer, on behalf of the Owner, in response to an inquiry from the contractor, intended to make some requirement(s) of the drawings or plans clearly understood. Drawing/plan clarifications may be sketches, drawings, or in narrative form and will not change any requirements of the drawings or plans. Responses to contractor inquiries shall be as outlined in "Requests for Information" as specified herein.
  - b. **Non-Conformance Notice:** A notice issued by the Architect, on behalf of the Owner, documenting that the Work or some portion thereof has not been performed in accordance with the requirements of the Contract Documents. Payment shall not be made on any portion of the Work for which a Non-Conformance Notice has been issued and the Work not corrected to the satisfaction of the Engineer and Owner.
    - 1) Upon receipt of a Non-Conformance Notice, the Contractor shall provide a written Response to Non-Conformance Notice within five (5) working days after receipt of the Notice. The contractor's response shall detail either (a) why they believe that the work was performed in accordance with the contract documents or (b) what corrective action they intend to take, at their sole expense, to correct the non-conforming work.
    - 2) If the Contractor disputes the issuance of the Non-Conforming Notice, the Engineer, on behalf of the Owner, has five (5) working days to respond by either (a) withdrawing the Non-Conformance Notice or (b) directing the Contractor to correct such Work. Such determination by the Engineer, on behalf of the Owner, shall be final and conclusive.
    - 3) If directed to correct the Work, the Contractor shall do so within five (5) working days after receipt of such direction from the Engineer, on behalf of the Owner, or such other time as may be agreed to.
  - c. **Project Communications:** Routine written communications between the Engineer, Owner, and Contractor which are in letter, field memo, or fax format. Such communications shall not be identified as Requests for Information nor shall they substitute for any other written requirement pursuant to the provisions of these Contract Documents.
  - d. **Requests for Information:** A request from the Contractor or one of its subcontractors, to the Engineer, on behalf of the Owner, seeking an interpretation or a clarification of some requirement of the Contract Documents. The contractor shall clearly and concisely set

forth the issue for which it seeks clarification or interpretation and why a response is needed. The contractor shall, in the written request, set forth its interpretation or understanding of the contract's requirements along with reasons why it has reached such an understanding.

#### 4. REQUESTS FOR INFORMATION

- a. In the event the contractor or subcontractor, at any tier, determines that some portion of the drawings, specifications, or other contract documents requires clarification or interpretation, the contractor shall submit a Request for Information in writing. Requests for Information shall only be submitted by the Prime Contractor and shall only be submitted on the Request for Information form provided.
  - 1) The contractor shall clearly and concisely set forth the issue for which clarification or interpretation is sought and why a response is needed. In the Request for Information, the contractor shall set forth an interpretation or understanding of the requirement along with reasons why such an understanding was reached.
- b. The Engineer, on behalf of the Owner, will review all Requests for Information to determine whether they are Requests for Information as defined in the Contract Documents. If it is determined that the document is not an RFI, it will be returned to the contractor, un-reviewed as to content, for re-submittal on the proper form in the proper manner.
- c. Responses to Requests for Information shall be issued within five (5) working days of receipt of the request from the contractor, unless the Engineer determines that a longer time is needed to provide an adequate response. If a longer time is deemed necessary by the Engineer, then the Engineer shall, within five (5) working days of the receipt of the request, notify the contractor of the anticipated response time.
  - 1) If the contractor submits a Request for Information on an activity with five (5) working days or less of float on the current project schedule, the contractor shall not be entitled to any time extension due to the time it takes the Engineer, on behalf of the Owner, to respond to the request provided that the Engineer responds within the five (5) working days set forth above.
- d. Responses from the Engineer, on behalf of the Owner, will not change any requirements of the Contract Documents. In the event that the contractor believes the response to a Request for Information will cause a change to the requirements of the Contract Documents, the contractor shall immediately give written notice that the contractor considers the response to be a Change Order. Failure to give such written notice immediately shall waive the contractor's right to seek additional time or cost under the provisions set forth in the General Conditions.

END OF SECTION



## SECTION 01060

### PROPOSAL REQUEST (PR) PROCEDURES

#### PART 1 – GENERAL

1. RELATED DOCUMENTS
  - a. Drawings and General Provisions of Contract, including Standard Special Provisions, and other Specification Sections, apply to the Work of this Section and all Sections in the Project Manual whether or not specifically indicated.
2. SUMMARY
  - a. This section includes administration and procedural requirements for proposal requests.
  - b. Measurement and payment criteria applicable to work required.
3. DEFINITION
  - a. Proposal Request is a written direction in the form of an AIA Based Document or CA Database document from the Engineer, Contractor and Owner used to document changes in Scope of work and to identify the cost impact of the change.
4. CAUSE FOR PROPOSAL REQUESTS
  - a. Changes in Scope of work may be affected by:
    - 1) As a result of Design Changes that are cost related changes in order to complete or enhance the scope of the change in question and results in added value to the Owner.
    - 2) As an Owner requested change that is a cost related change in scope that is initiated by the Owner.
    - 3) As a unforeseen change that is a cost related change in scope that is most generally related to existing site conditions or existing facility that could not have been known at Bid time and clearly unidentifiable.
    - 4) As a value engineering change that is a cost related change that after identifying or solving techniques the required function at the lowest or lower cost achieved.
    - 5) As a construction change that is a cost related change that is closely related to a design change but is brought to the attention of the Engineer/Architect due to installation means and method or construction clarification.
5. PROCEDURES
  - a. The Engineer shall issue written direction through a Proposal Request which will include detailed information, drawings or sketches and changes in scope of work to the Contract Document.

- b. The Contractor shall review the Proposal Request and submit their cost Proposal for the cost related changes.
  - 1) Contractor shall indicate if the cost is an add to, or deduct from the Contract Sum. Proposal requests may be issued for deduct cost items as well.
- c. The Contractor shall submit their cost proposal within ten (10) working days or state in writing when the Proposal will be returned based on the given circumstances. Each proposal shall include a material and labor breakdown for all work performed by their own forces, or subcontractor's forces. Any supporting time sheets for time and material work and subcontractors cost proposals shall be included in the Prime Contractors' Proposal. All of these items shall be included in deduct proposal requests as well.
- d. Each Proposal issued by the Contractor shall specifically address any required additional or deducted contract time. If no mention is made it is assumed that none is required. No consideration of additional time will be given for previously approved Proposals without specific written approval from the Owner or Engineer.
- e. The maximum aggregate increased cost for combined overhead and profit shall be as noted in the General and Supplementary Conditions. This combined overhead and profit as specified shall be used in deduct proposal requests as well.
- f. The value of any scope of work change shall be determined by mutual acceptance of a lump sum, by unit prices or by time and material basis not to exceed plus the appropriate mark-up.
- g. The Engineer shall review the contractors cost proposal and provide a recommendation to the Owner.
- h. The Owner reserves the right to reject the contractors cost proposal associated with the Proposal Request.
- i. The Owner shall review the recommendations of the Architect and if appropriate approve the contractors cost proposal. A memorandum shall be issued to the contractor notifying the contractor of approval with any clarifications.
- j. The approved Proposal Request shall become a part of the contract documentation when issued in a Change Order. The Owner reserves the right to include multiple Proposal Requests in one Change Order.
- k. For payment purposes, the Contractor may list each Change Order by number with a listing of each Proposal Request on the schedule of values submitted with each Pay Application. The Owner will pay for approved percentages of each Proposal Request until completed.
- l. The Contractor shall carry out the scope of work changes after notification of approval. Work related to the Proposal Request shall be carried out within a reasonable time in order to not delay other work or to cause increased cost because of other work. The Contractor shall have ten (10) working days in which to respond to Proposal Request or to notify the Engineer in writing of the date on which the Proposal is anticipated. These requirements apply to deduct proposal requests as well.

- m. If the contractor fails to respond to the Proposal Request or notify the Engineer/Architect within (10) calendar days, this lack of action shall be construed as no additional cost for the Proposal Request.
- n. If the contractor's cost proposal is rejected by the Engineer, all parties shall review the scope of work and cost proposal and agree to an acceptable cost.
- o. If the Contractor and Engineer can not come to an agreement on an acceptable cost, the Contractor may be directed to proceed with the scope of work changes on a time and material basis not to exceed the Contractor's cost Proposal. The Contractor shall be required to submit daily time sheets for the Engineer to review and approve. The Owner shall review and approve the final costs upon recommendation of the Engineer.

6. CHANGE ORDERS

- a. The Owner shall assemble the Change Order by Proposal Request or by grouping a number of Proposal Requests.
- b. Two original copies of the Change Order shall be printed for signatures. Upon completion of the signature process an original copy will be forwarded to the Contractor.
- c. The Contractor shall provide a new non-collusion affidavit with the return of the Change Order after signing.
- d. Payment for the Change Order will be possible after signatures are obtained from the Engineer/Architect, the Contractor and the Owner and upon acceptance by the Owner.

7. AS-BUILT DOCUMENTATION

- a. It is imperative that the Contractor update their as-built documents in the field for each and every Proposal Request that changes the content of the Document. The Owner reserves the right to inspect the Contractor's as-built document prior to each Pay Application. The status of the Contractors as-builts may result in withheld payment for that portion of the work.

END OF SECTION

**SECTION 01150/( 02000)**

**TEMPORARY PROTECTION**

**PART 1 – GENERAL**

**1. RELATED DOCUMENTS**

- a. Drawings and General Provisions of the Contract, including any Standard Special Provisions and other Specification Sections, apply to this Section.

**2. SUMMARY**

- a. This section specified requirements for protection.
- b. Protection facilities required include but are not limited to:
  - 1) Barricades, warning signs, lights.

**3. QUALITY ASSISTANCE**

- a. Regulations: Comply with industry standards and applicable laws and regulations if authorities having jurisdiction, including but not limited to:
  - 1) Building Code requirements.
  - 2) Health and safety regulations.
  - 3) Utility company regulations.
  - 4) Police, Fire Department and Rescue Squad rules.
  - 5) Environmental protection regulations.
- b. Standards: Comply with NFPA Code 241, "Building Construction and Demolition Operations", ANSI-A10 Series standards for "Safety Requirements for Construction and Demolition", and NECA Electrical Design Library "Temporary Electrical Facilities."
  - 1) Refer to "Guidelines for Bid Conditions for Temporary Job Utilities and Services", prepared jointly by AGC and ASC, for industry recommendations.
  - 2) Electrical Service: Comply with NEMA, NECA and UL standards and regulations for temporary electric service. Install service in compliance with National Electric Code (NFPA 70).
- c. Inspections: Arrange for authorities having jurisdiction to inspect each disconnected utility. Obtain required certifications and permits.

**4. EQUIPMENT**

- a. First Aid Supplies: Comply with governing regulations.
- b. Fire Extinguishers: Provide hand-carried, portable UL-rated, class "A" fire extinguishers for temporary offices and similar spaces. In other locations provide hand-carried, portable, UL-rated, class "ABC" dry chemical extinguishers, or a combination of extinguishers for NFPA recommended classes for the exposure.
  - 1) Comply with NFPA 10 and 241 for classification, extinguishing agent and size required by location and class of fire exposure.

5. PROTECTION FACILITIES INSTALLATION

- a. Temporary Fire Protection: Comply with NFPA 10 "Standard for Portable Fire Extinguishers," and NFPA 241 "Standard for Safeguarding Construction, Alterations, and Demolition Operations."
  - 1) Locate fire extinguishers where convenient and effective for their intended purpose.
  - 2) Store combustible materials in containers in fire-safe locations.
  - 3) Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, stairways and other access routes for fighting fires. Prohibit smoking in hazardous fire exposure areas.
- b. Barricades, Warning Signs and Lights: Comply with standards and code requirements for erection of structurally adequate barricades. Paint with appropriate colors, graphics and warning signs to inform personnel and the public of the hazard being protected against. Where appropriate and needed provide lighting, including flashing red or amber lights.
- c. Environmental Protection: Provide protection, operate temporary facilities and conduct construction in ways and by methods that comply with environmental regulations, and minimize the possibility that air, waterways and subsoil might be contaminated or polluted, or that other undesirable effects might result. Avoid use of tools and equipment which produce harmful noise. Restrict use of noise making tools and equipment to hours that will minimize complaints from persons or firms near the site.

END OF SECTION

## SECTION 01300/ (01080)

### SUBMITTALS

#### PART 1 – GENERAL

##### 1. RELATED DOCUMENTS

- a. The Work of this Section shall be included as a part of the Contract Documents of the General Prime Contractor and subcontractors on this Project.

##### 2. SUBMITTAL PROCEDURES

- a. Submittals shall be submitted directly to the Engineer by the Prime General Contractor.
- b. All contractors on this Project shall provide submittals in accordance with the requirements of this Section. Where a submittal is required by a contractor but assistance is required from others, all contractors shall participate and cooperate to expedite each submittal.
- c. Where submission of samples, shop drawings, or other items are required from suppliers or subcontractors, it shall be the responsibility of the Prime Contractor to see that the submittal items required are complete and properly submitted, and corrected and resubmitted at the time and in the order required so as not to delay the progress of the Work.
- d. The Prime General Contractor shall check all shop drawings, samples, and other submittals and submit them to the Engineer, with a letter of transmittal giving his approval, comments, and suggestions. Each transmittal shall include the following information:
  - 1) Date Submitted.
  - 2) Submittal Number (followed by A, B, C etc. for re-submittals)
  - 3) Project title and number.
  - 4) Prime Contractor's name and address.
  - 5) Subcontractor's name and address, if applicable.
  - 6) Identification by Specification Section and quantity submitted for each submittal including name of subcontractors, manufacturer, or supplier.
  - 7) Notification of deviations from the Contract Documents for each submittal.
  - 8) Contractor's written approval electronically marked on each submittal. If contractor's submittals are not stamped and reviewed by the contractor prior to submitting for review, submittals will be sent back to the contractor.

- e. The General Prime Contractor shall prepare, review, and stamp with his approval and submit, with reasonable promptness or within the specified time periods and in orderly sequence so as to cause no delay in the Work or in the Work of another contractor, submittals required by these Contract Documents or subsequently required by modifications.
  - 1) If the product is not as specified or approved by Addenda, it will be rejected by the Engineer. Contractor shall not make submittals if the product manufacturer is not specified or listed in the Addenda. This will delay the submittal process and the contractor shall assume full responsibility for any delays caused by unapproved manufacturer submittals.
- f. The Engineer will review and take action on submittals with reasonable promptness, so as to cause no delay in the progress. A reasonable period of time for review of and action taken on submittals shall be as specified herein, but in no case shall it be more than 21 calendar days from the time it is received by the Engineer until the time the submittal is marked and forwarded or returned. Contractors shall allow sufficient mailing time for submittals.
- g. The General Prime Contractor shall submit a Submittal Log to the Engineer for approval and the submittal log shall be updated at the regular Progress Meetings.
  - 1) The Submittal Log shall be submitted in electronic format. Electronic format shall be in Microsoft Excel 2000 or later or Microsoft Word 2000 or later and submitted on CD-Rom. Diskette submittals will not be allowed.

### 3. REQUIRED SUBMITTALS

#### a. List of Subcontractors, Suppliers, and Manufacturers

- 1) The General Prime Contractor shall submit with the bid, a list of subcontractors for this Project. List of subcontractors shall be submitted with bid. The list shall be complete with names, street addresses, city, state, and zip code. List shall be complete including requested subcontractors. More than one subcontractor listed per category may be cause for rejection of bid.
- 2) In addition to the names of subcontractors, the General Prime Contractor shall be aware of the required dates that shop drawings and samples are to be submitted for approval and the critical date for delivery. Dates submitted for shop drawings and samples shall be realistic and be coordinated with the Progress Schedule for critical dates that affect the progress of construction.

#### b. Construction Schedules

- 1) A linear bar chart time control schedule or CPM schedule shall be provided by the General Contractor with input and coordination from all subcontractors.
  - a) Each contractor is responsibly to expedite approvals and deliveries of material so as not to delay job progress.
  - b) Each contractor shall begin each phase of his work as quickly as physically possible, but not to impede or jeopardize the Work of other Contractors.

- c) Each subcontractor shall cooperate fully with the General Contractor in the coordination of the Work with other subcontractors and the convenience of the Owner as indicated in the Specifications.
- d) The General Contractor and subcontractors shall participate in the updating of the schedule on a monthly basis during the entire life of the contract.
  - (1) The General Contractor's schedule shall be updated no less than twice a month and submitted to the Engineer and other involved parties at least 2 days prior to the progress meeting.
- e) The Project Construction Schedule will be updated monthly prior to the progress meeting reflecting revised schedule and progress meeting results.

c. Schedule of Values

- 1) The General Prime Contractor shall prepare and submit to the Engineer a Schedule of Values for approval within 7 days after notice is given to proceed with Work. The Schedule of Values shall consist of a complete breakdown of the Contractor's contract sum showing the various items of the Work, divided so as to facilitate the approval of payments to the Contractor for Work completed. The Schedule of Values shall be prepared on EJDC Document C620 with continuation Sheets, or Approved Equal, showing the breakdown of items of Work and supported by such data to substantiate its correctness as the Engineer may require.
- 2) The contract breakdown shall be the same form as that to be used in submitting request for payments. Each item shall be broken down by specification section number and title. Each item of work shall have indicated a separate cost for labor and material. This schedule, when approved by the Engineer and the Owner's Project Manager, shall be used as the basis of approving payments along with establishing percentages of Work complete.
- 3) Schedule of Values shall be coordinated with the Construction Schedules such that the percentages of Work completed closely relates to the values for the Work shown on the request for payments. At the beginning of the Project, the General Prime Contractor shall prepare a schedule of monthly progress payments showing the amount the Contractor may require for the Work proposed to be completed. The purpose of this schedule is to allow the Owner to determine what amounts of funds he will be required to have available each month during the progress of construction for progress payments.

d. Project Site Use Plan

- 1) The General Prime Contractor, in cooperation with the subcontractors on this Project, shall prepare a proposed project use of the site plan, after consultation with the Engineer and Owner's Project Manager.
- 2) All contractors shall confine operations at the site to areas within the areas indicated and as approved on the use of the site plan, and as permitted by law, ordinances, and permits. Site shall not be unreasonably encumbered with materials, products, or construction equipment.



e. Shop Drawings and Product Data

- 1) Shop drawings are working drawings, diagrams illustrations, schedules, performance charts, brochures, and other data which are prepared by the General Prime Contractor or subcontractors, manufacturer, supplier, or distributor to illustrate some portion of the Work.
  - a) Advertising brochures will not be accepted as shop drawings.
  - b) Erection and setting drawings as referred to in these Specifications will be considered as shop drawings and shall be submitted along with detailed shop drawings.
  - c) Where schedules are required to indicate locations, they shall be submitted as part of the shop drawings package for that item.
  - d) Shop drawings and schedules shall repeat the identification shown on the Contract Drawings.
  - e) The Contractor and his subs shall mark the shop drawings only in color "green" or "blue" and not red at any time. Red color marks or markings shall be utilized by the Engineer.
- 2) Product data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the contractor to illustrate material, product, or system for some portion of the Work.
  - a) Clearly mark each copy to identify pertinent materials.
  - b) Show dimensions and clearance required.
  - c) Show performance and characteristics and capacities.
  - d) Show wiring diagrams and controls.
  - e) Note variances from the Contract Documents including manufacturer's recommended changes to sequencing and to piping and control diagrams.
- 3) Preparation of Submittals: Provide permanent marking on each submittal to identify project, date, Contractor, Subcontractor, submittal name, and similar information to distinguish it from other submittals. Show Contractor's executed review and approval marking and provide space for Engineer's "Action" marking. Package each submittal appropriately for transmittal and handling. Submittals which are received from sources other than the prescribed Contractor channels will be returned "without action", which does not mean approval.
- 4) By approving and submitting shop drawings, the General Prime Contractor thereby represents that he has determined and verified field measurements, field construction criteria, materials, catalog numbers, and similar data, and that he has checked and coordinated each shop drawing with the requirements of the Work and of the Contract Documents prior to submitting to the Engineer.

- 5) The General Prime Contractor shall make corrections required by the Engineer and shall resubmit the required number of corrected copies of shop drawings until approved. The General Prime Contractor shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections requested by the Engineer on previous submissions.
- 6) The Engineer will review shop drawings only for conformance with the design concept of the Project and with the information given in the Contract Documents. The Engineer's review of a separate item shall not indicate review of an assembly in which the item functions.
- 7) The Engineer's review of shop drawings shall not relieve the Contractor of responsibility for any deviation from the requirements or the Contracts Documents unless the Contractor has informed the Engineer in writing of such deviation at the time of submission and the Engineer has given written approval to the specific deviation, nor shall the Engineer's action relieve the Contractor from responsibility for errors or omissions in the shop drawings.
- 8) Notations and remarks added to shop drawings by the Engineer are to insure compliance to Drawings and Specifications and do not imply a requested or approved change to contract cost.
- 9) Should deviations, discrepancies, or conflicts between shop and contract drawings and Specifications be discovered, either prior to or after review, Contract Documents shall control and be followed.
- 10) The following number of shop drawings and product data submittals shall be made on this Project. Where an insufficient number of copies are submitted, no action will be taken until proper number of copies has been received. Additional copies beyond the number required will be discarded.
- 11) Schedule of Required Shop Drawings and Product Data
  - a) Architectural/Structural/Mechanical/Electrical
    - Submit to the Engineer: **Five (5)** copies.
    - Distribution after review:
      - 2 returned to the Contractor
      - 1 copy for Owner
      - 2 copies retained by Engineer

The Contractor shall reproduce additional copies for his subs. One copy shall be kept in the job site trailer for field use at all times.
- 12) Shop drawings will be marked as follows: Contractors shall take the following action for each respective marking:
  - a) "APPROVED" or "REVIEWED AND RELEASED" - Copies will be distributed as indicated under above schedule.
  - b) "APPROVED AS NOTED" or "REVIEWED AND RELEASED WITH CORRECTIONS" - Contractor may proceed with fabrication, taking into account the necessary corrections. Corrected shop drawings shall be resubmitted before fabrication of this Work is completed. Only shop drawings marked "REVIEWED

AND RELEASED" by Engineer will be permitted on the project site.

- c) "REVISE AND RESUBMIT" - Contractor will be required to resubmit shop drawings in their entirety. No fabrication or installation shall be started until shop drawings so marked have been completely revised, corrected, resubmitted, and marked by Engineer according to preceding Paragraphs a. or b.
  - d) "REJECTED" - Not enough information has been sent. Contractor will be required to resubmit shop drawings in their entirety.
- 13) The re-submittal and distribution shall be as specified in subparagraph 11 above.
- 14) One set of shop drawings marked by the Engineer "APPROVED" or "APPROVED AS NOTED" or "REVIEWED AND RELEASED" shall be filed on the project site at all times. No installation of equipment, materials, or products shall be incorporated into the Project until shop drawings marked by the Engineer/Architect "APPROVED" or "APPROVED AS NOTED" or "REVIEWED AND RELEASED" have been received on the Project.

f. Operations and Maintenance Manual

- 1) Prior to Substantial Completion submit necessary copies of the required Operations and Maintenance Manual for materials and equipment incorporated in the Work to the Engineer for review. See Section 01725

g. Warranties and Bonds.

- 1) Prior to Substantial Completion submit required copies of Warranties and Bonds to the Engineer for review. See Section 01740

END OF SECTION

## SECTION 01700

### CONTRACT CLOSEOUT

#### PART 1 - GENERAL

##### 1.01 DESCRIPTION

- A. Scope of Work: Comply with requirement stated in Conditions of the Contract and in Specifications for administrative procedures in closing out the Work.
- B. Related Requirements Described Elsewhere:
  - 1. Start-Up and Demonstration
  - 2. Construction Cleaning: Section 01710.
  - 3. Project Record Documents and O & M Manuals: Section 01725.
  - 4. Warranties and Bonds: Section 01740.
- C. General:
  - 1. Closeout is hereby defined to include general requirements near the end of Contract time in preparation for final project acceptance, final payment, normal termination of contract, occupancy by the Owner and similar actions evidencing completion of the Work. Time of Closeout is directly associated with contract Date of Substantial Completion and Date of Final Completion.
  - 2. Substantial and Final completion requests for inspection by the Contractor shall be scheduled sufficiently in advance of the two milestones with liquidated damages to allow time for completing Engineer observed punchlist corrections.

##### 1.02 SUBSTANTIAL COMPLETION

- A. Prerequisites: The Work will not be considered substantially complete, and Contractor may not request substantial completion inspection unless the following submittals and work has been completed and submitted to the Engineer:
  - 1. All Operation and Maintenance manuals have been submitted and approved.
  - 2. All equipment has been checked-out by the equipment manufacturer and Certificates of Manufacturer's Check-Out have been submitted.
  - 3. All start-up and demonstration testing completed and Certificates of Completed Demonstration submitted.
  - 4. Project Record Documents (Record drawings, O & M Manuals etc. required documents) are complete and have been submitted to the Engineer as per

requirements of Section 01720.

5. All training of Owner's personnel completed.
  6. All areas to be used and occupied are safe, operable and complete.
  7. All painting, finishes, fencing, site and facility cleanup, final grading, grassing, planting, sidewalk construction, and paving shall have been completed and ready for inspection.
  8. All deficiencies noted on inspection reports or non-conformances are corrected or the correction plan approved.
  9. Advise Owner of pending insurance changeover requirements.
  10. Submit specific warranties, workmanship/maintenance bonds, maintenance agreements, agreements, final certifications, and other required closeout documents.
  11. Obtain and submit release enabling Owner's full and unrestricted use of the Work and access to services and utilities, including occupancy permits, operating certificates, and other similar required releases.
  12. Deliver tools, spare parts, extra stocks of materials, and similar physical items as specified to the Owner. Obtain receipts for deliveries to Owner's representative.
- B. When the conditions of paragraph 1.02 A. are met the Contractor shall submit to the Engineer:
1. A letter notice that he considers the Work, or portion thereof, has reached "Substantial Completion", and requests an inspection.
  2. A punchlist of items to be corrected. (Uncompleted work which is not related to the safe, effective, efficient use of the Project may be allowed on the punchlist with the Engineer's approval.)
- C. Within a reasonable time after receipt of such notice, the Engineer will make an inspection to determine the status of Substantial completion and prepare a punchlist of corrections and incomplete items.
- D. Should the Engineer determine that the Work is not substantially complete:
1. The Engineer will promptly notify the Contractor in writing, giving the reasons.
  2. Contractor shall remedy the deficiencies in the Work and send another written notice of "Substantial Completion" readiness to the Engineer.
  3. The Engineer will within reasonable time, re-inspect the Work.
- E. When the Engineer finds that the Work is substantially complete, he will:

1. Schedule a walk-through of the facility to include the Owner. Engineer shall determine the completeness of the punchlist and readiness of the facility for occupancy by the Owner.
2. Prepare and deliver to Owner a tentative Certificate of Substantial Completion with an updated tentative punchlist of items to be completed or corrected by the Contractor before final inspection.
3. After consideration of any objections made by the Owner as provided in Conditions of the Contract, and when the Engineer considers the Work substantially complete, he will execute and deliver to the Owner and the Contractor a definite Certificate of Substantial Completion with a revised tentative list of items to be completed or corrected. Any incomplete work allowed on a punchlist must be re-inspected upon completion and any deficiencies found will be added to the punchlist.

### 1.03 FINAL INSPECTION

- A. Prerequisites: Prior to Contractor's request for a final inspection the following submittals and work must be complete:
  1. Project Record Documents (Record drawings, Warranties, O & M Manuals etc.) must be in acceptable condition to the Engineer.
  2. All spare parts and maintenance materials must be suitably delivered to the Owner.
  3. Contractor has cleaned the work site.
- B. After satisfying the requirements of paragraph 1.03 A. and when Contractor considers the Work complete, he shall submit written certification letter that:
  1. Contract Document requirements have been met.
  2. Work has been inspected by the Contractor for compliance with the Contract Documents.
  3. Work has been completed in accordance with the Contract Documents.
  4. Equipment and systems have been tested in the presence of the Owner's representative and are operational.
  5. Letter from the Electrical subcontractor certifying that electrical work including the wiring complies with NEC current applicable editions.
  6. All previous punchlist items have been corrected or completed and the Work is ready for final inspection.
  7. Submit certification stating that no materials containing asbestos were incorporated into the Work.

C. The Engineer will, within reasonable time, make an inspection to verify the status of completion with reasonable promptness after receipt of such certification.

D. Should the Engineer consider that the Work is incomplete or defective:

The Engineer will promptly notify the Contractor in writing, listing the incomplete or defective work.

2. Contractor shall take immediate steps to remedy the stated deficiencies, and send another written certification to the Engineer that the Work is complete.

3. The Engineer will, within a reasonable amount of time, re-inspect the Work.

D. When the Engineer finds that the Work is acceptable under the Contract Documents, the Contractor may make "Closeout Submittals".

#### 1.04 CONTRACTOR'S CLOSEOUT SUBMITTALS

A. Warranties and Bonds: Section 01740.

B. Evidence of Payment and Release of Liens: to requirements of General and Supplementary Conditions.

C. Certificate of Insurance for Products and Completed Operations.

#### 1.05 FINAL ADJUSTMENT OF ACCOUNTS

A. Submit a final statement of accounting to the Engineer.

B. Statement shall reflect all adjustments to the Contract Sum:

1. The original Contract Sum.

2. Additions and deductions resulting from:

a. Previous change orders or written amendment.

b. Allowances.

c. Unit prices.

d. Deductions for uncorrected work.

e. Penalties and bonuses.

f. Deductions for liquidated damages.

h. Other adjustments.

3. Total Contract Sum, as adjusted.

4. Previous payments.
  5. Sum remaining due.
- C. Engineer will prepare a final Change Order, reflecting approved adjustments to the Contract Sum which were not previously made by Change Orders.

#### 1.06 FINAL APPLICATION FOR PAYMENT

- A. Contractor shall submit the final Application for Payment in accordance with procedures and requirements stated in the Conditions of the Contract.

#### 1.07 WARRANTY – CORRECTIONS OF THE WORK

- A. Prior to the expiration of the one year warranty period, the Engineer and the Owner will check to see if additional Work or corrections are required by the Contractor to make good on the warranties. An itemized list will be furnished to the General Contractor for corrective or replacement work.
- B. This Work shall be completed immediately by the Contractor after receiving notification

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION



**SECTION 01710/(02040)**

**CONSTRUCTION CLEANING**

1. RELATED WORK

- a. The Work of this Section shall be included as part of the Contract Documents of each contractor on this Project.

2. SUMMARY

- a. The Engineer reserves the right to act on behalf of the Owner pertaining to the clean-up responsibilities that are a part of each Contractor's Work.

3. PURPOSE - DAILY CLEANING

- a. Define and emphasize the responsibility of each contractor to remove his rubbish and debris from the construction site to guard against fire and safety hazards as well as to provide a more efficient construction operation for all Contractors. If this cleaning is not performed to the satisfaction of the Owner and the Engineer, it will be performed for the contractor at his expense. Such expense will be deducted from the next pay application.

4. PURPOSE - ROUTINE CLEANING

- a. Each Friday afternoon, and more often if necessary, each contractor shall perform an overall cleanup of the entire site, including a broom cleaning of appropriate surfaces. The trades shall remove their rubbish and debris from the building site to the rubbish collection location promptly upon its accumulation and in no event later than the regular Friday general cleanup.

5. RUBBISH CONTAINER

- a. The General Prime Contractor shall provide dumpster type rubbish container with lid, sized adequate for the Project waste, debris, and rubbish for the life of the Project.
- b. Dispose of container contents weekly or at more frequent intervals if required by inadequate container capacity.

6. SAFETY REQUIREMENTS

- a. Hazards Control (By each Contractor)
  - 1) Store volatile wastes in covered metal containers, and remove from the premises daily.
  - 2) Prevent accumulation of wastes, which create hazardous conditions.
  - 3) Provide adequate ventilation during use of volatile or noxious substances.
- b. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution

laws.

- 1) Do not burn or bury rubbish and waste materials on project site.
- 2) Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
- 3) Do not dispose of wastes into streams or waterways.

7. MATERIALS

- a. Use only cleaning materials recommended by manufacturer of surface to be cleaned.
- b. Use cleaning materials only on surface recommended by cleaning material manufacturer.

8. DAILY CLEANING

- a. Each Contractor shall execute daily cleaning to ensure that building, grounds, and public properties are maintained free from accumulations of waste materials and rubbish.
- b. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- c. Daily, during progress of work, clean site and public properties and dispose of waste materials, debris, and rubbish in dumpster type rubbish container provided under this Section.
- d. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.
- e. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- f. Place no new work on dirty surfaces.

9. ROUTINE CLEANING

- a. Employ experienced workmen for cleaning.
- b. Remove dirt, mud, and other foreign materials from sight exposed interior and exterior surfaces.
- c. Each Friday, or at more frequent intervals, if work activities justify same, all contractors shall perform cleaning. This includes all dirt, dust, and debris not identifiable as part of a Contract. Broom clean floor and paved surfaces; rake clean other surfaces of ground.
- d. The General Prime Contractor shall maintain adjacent roads free from the accumulation of mud, rocks, rubbish, litter and debris resulting from construction activities.
- e. Remove litter, rubbish and debris from chases, whether the chases will be accessible or not.
- f. Maintain cleaning throughout the life of the Project.

- g. Should the General Prime Contractor fail in the performance of this Work, the Owner may perform such Work in accordance with the General Conditions.

#### 10. SUBSTANTIAL COMPLETION & FINAL CLEANING

- a. The General Contractor shall perform his respective clean-up at Substantial Completion and Final Completion and shall leave the Work of the complete Project in clean, neat condition. The following are examples, but not by way of limitation, of cleaning levels required.
  - 1) Remove labels which are not required as permanent labels.
  - 2) Clean transparent materials, including mirrors and window/door glass, to a polished condition, removing substances which are noticeable as vision-obscuring materials. Replace broken glass and damaged transparent materials.
  - 3) Clean exposed exterior and interior hard surfaces to a dirt free condition, free of dust, paint, grease or oil stains, films, and similar noticeable distracting substances. Except as otherwise indicated, avoid disturbance of natural weathering of exterior surfaces. Restore reflective surfaces to original reflective condition.
  - 4) Wipe surfaces of mechanical and electrical equipment clean; remove excess lubrication and other substances.
  - 5) Remove debris and surface dust from limited access spaces including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
  - 6) Clean concrete floors in non-occupied spaces broom clean. Remove paint, grease, oil stains etc.
  - 7) Vacuum clean carpeted surfaces and similar soft surfaces.
  - 8) Clean plumbing fixtures to a sanitary condition, free of stains, including those resulting from water exposure.
  - 9) Clean food service equipment to a condition, free of stains, including those resulting in water exposure.
  - 10) Clean light fixtures and lamps so as to function with full efficiency.
  - 11) Clean project site (yard and grounds), including landscape development areas, of litter and foreign substances. Sweep paved areas to a broom clean condition; remove stains, petro-chemical spills, and other foreign deposits. Rake grounds which are neither planted nor paved to a smooth, even textured surface.

END OF SECTION

## SECTION 01725

### PROJECT RECORD DOCUMENTS AND OPERATING & MAINTENANCE MANUALS

#### PART 1- GENERAL

##### 1.01 SECTION INCLUDES

- A. Requirements for preparation, maintenance and submittal of project Record Documents including the Operating and Maintenance Manuals

##### 1.02 RELATED SECTIONS

- A. Submittals, Section 01300
- B. Contract Closeout, Section 01710

##### 1.03 SUBMITTALS

- A. General as specified in Section 01300
- B. At Contract Close Out, deliver **one (1)** copy of “**Record Documents**” to the Engineer as specified and fully annotated **in green felt pen** recording field as built work. Documents shall accompany a transmittal letter from the Contractor. The Record Drawing information will be converted to electronic drawings by the Engineer for Owners record.
- C. Prior to substantial completion submit five copies of the O & M Manuals to the Engineer for review as specified herein.

##### 1.04 REQUIREMENTS: Contractor shall at the job site keep for the Owner on record copy of the following:

- A. Drawings marked up set with as built current field changes.
- B. Specifications.
- C. Copies of Addenda.
- D. Change Orders and other modifications to the Contract.
- E. Engineer’s Field orders, Work Orders or Written Instructions.
- F. Approved Shop Drawings and Samples.
- G. Field Test records.
- H. Construction Photographs.
- I. Detailed Progress Schedule.

##### 1.05 MAINTENANCE OF DOCUMENTS

- A. Project documents and samples shall be stored at the Contractor’s field office apart from documents used for construction.
- B. **Do not use record documents for construction purposes.**
- C. Keep the documents updated with on going changes.

##### 1.06 RECORDING

A. General

1. Label each document "PROJECT RECORD" in neat printed letters or rubber stamp. Mark changes in Green color
2. Record information concurrently with construction progress. Do not conceal any work until the required information has been recorded

B. Record Drawings.

1. Record information clearly and legibly to scale to record actual construction. Record location of underground piping with elevation and dimensions.
2. Field changes of dimensions and elevations.
3. Changes made by Change Order.
4. Details, Utilities, piping or structures not on the original Contract Drawings.
5. Equipment and piping locations.

C. Specifications and Addenda. Legibly mark each section to record.

1. Manufacturer, trade, catalog number and supplier of each product and equipment actually installed.
2. Changes made by "Field Order" or "Change Order"

D. Shop Drawings.

1. After review and final approval keep one copy of Approved shop drawings with the Record Documents. Do not keep previously rejected submittals.

1.07 OPERATIONS AND MAINTENANCE MANUALS.

A. Prior to Date of Substantial Completion, and a requirement prior to receiving final payment, the Contractor shall submit to the Engineer, three (3) copies of a comprehensive Maintenance and Operating Manual presenting complete directions and recommendations for the proper care and maintenance of visible surfaces as well as maintenance and operating instructions for equipment items which he has provided. Operation and Maintenance Manuals shall include the following (where applicable):

- 1) Schematic and piping and wiring diagrams.
- 2) Valve charts and schedules.
- 3) Lubrication charts and schedules.
- 4) Guides for troubleshooting.
- 5) Pertinent diagrams of equipment with main parts identification.
- 6) Manufacturer's data on all equipment.
- 7) Operating and maintenance instructions for all equipment.
- 8) Manufacturer's parts list.

- 9) Any testing procedures for operating tests.
  - 10) Roof maintenance manual as specified in related Section.
- C. Operating instructions shall include necessary printed directions for correct operations, adjustments, servicing, and maintenance of movable parts. Also included shall be suitable parts lists, approved shop drawings, and diagrams showing parts location and assembly.
  - D. Upon Engineer's approval and prior to issuance of final payment(s), each Prime Contractor shall submit three (3) corrected and completed copies of Operating and Maintenance Manuals to the Engineer as part of Closeout Documents.
  - E. Finished manuals shall be loose-leaf type with hardboard covers and titled tabs identifying each particular portion or item of the Work.
  - F. For each titled item or portion of the Work, manual must provide the names, addresses, and phone numbers of the following parties:
    - 1) Contractor/installer
    - 2) Manufacturer
    - 3) Nearest dealer/supplier
    - 4) Nearest agency capable of supplying parts and service
  - G. For each manual label on front cover or spine, indicate the following information:
    - 1) Project name and address
    - 2) Owner's name
    - 3) Name and address of Engineer
    - 4) Name and address of all contractors and their contacts
    - 5) Date of submission
  - H. The contractor(s) shall instruct the Owner's operating personnel in the proper use, care and emergency repair of all equipment installed before final payment. The contractor(s) shall call particular attention to any safety measures that should be followed. The instruction shall be adequate to train the Owner's operating personnel in the proper use, care, and emergency repair of such equipment.
  - I. Refer to Section 01300 for additional submittal requirements.

#### 1.08 CHARTS AND LOCATIONS OF CONCEALED WORK

- A. The Contractor for Mechanical Work, shall prepare suitable charts identifying and locating each concealed control or other concealed item requiring repair, adjustment, and maintenance. Charts shall be mounted in suitable frames with glass covers secured to wall

where directed.

1. Charts and locations of concealed work may be submitted in electronic format as specified above for the operation and maintenance manuals.
- B. Charts shall list each item, together with its function, item number and location.
- C. Locations throughout the building shall be identified on the wall or ceiling by permanent, non-obstructive plates, labels, or other approved means secured in a permanent manner.
- D. Chart details, identification methods, locations, and methods of attachment shall be specified or approved by the Architect at the jobsite upon full submission of proposed procedures and proper execution of same.

END OF SECTION

## SECTION 01740

### WARRANTIES AND BONDS

#### PART 1 – GENERAL

1.01 SECTION INCLUDES: Requirements and procedures for warranties and bonds.

#### 1.02 RELATED SECTIONS

- A. Submittals
- B. Project Closeout
- C. Operations and Maintenance Data

#### 1.03 SUBMITTALS

##### A. Warranties and Bonds.

1. Obtain warranties and bonds, executed in triplicate by responsible Subcontractors, suppliers and manufacturers. Submit them to the Engineer for review. At closing submit them as part of the record document package.
2. The beginning of the warranty period shall start from the engineer certified date of “Substantial Completion” of the Work.
3. Verify documents are in proper form, contain full information, and are notarized.
4. Retain warranties and bonds until time specified for submittal.
5. **Failure to submit prior to final completion may result in non approval and non payment of the Final Pay request.**

##### B. Form of Submittal

1. Bind all Warranties, O & M manuals etc.
2. Provide full information.
3. List Subcontractor, supplier, and manufacturer, with name, address and telephone number of responsible principal.

#### PART 2 – PRODUCTS

#### PART 3 – EXECUTION

END OF SECTION



CITY OF NAPLES  
PURCHASING DIVISION  
270 RIVERSIDE CIRCLE  
NAPLES, FLORIDA 34102  
PH: 239-213-7100 FX: 239-213-7105

ADDENDUM NUMBER 1

MAILING DATE:  4/19/07	BID TITLE:  <b>RENOVATIONS AND ADDITIONS TO SERVICE BAYS 7 &amp; 8</b>	BID N080- 06UMBER:  041-07	BID OPENING DATE & TIME:  2:00PM; 4/26/07
---------------------------------	--	-------------------------------------	---

**THE FOLLOWING INFORMATION IS HEREBY INCORPORATED INTO,  
AND MADE AN OFFICIAL PART OF THE ABOVE REFERENCED BID.**

1. Cover Sheet, Sheet 1  
**Add a note at the top right corner of the drawing as follows;  
The graphic and noted written scales are based on full size  
drawings (22 x 34). The graphic and written scales are half  
of noted scales on half size drawings**
2. Drawing 1A1, Floor & Roof Plan, Sheet 5, Item B1  
**Add the following notes at the end of Plan Note 11;  
The wall insulation shall be a 3" thick WMP-VR-R Polypropylene/  
  
Scrim/Polyester insulation by Lamtec Corp. NJ or Johns Manville  
  
FSK-25 Faced Flame-resistant Formaldehyde-free Fiber Glass  
Insulation with a thermal R value of 11 in walls.**
3. Drawing 1A2, Elevations and Sections, Sheet 6, Item C1  
**North elevation, 1/1A1: Delete not on replacement of existing  
gutters and downspouts etc. and replace note as follows:  
Gutters and Downspouts are being replaced with new gutters  
and downspouts by the City under a separate contract. Include  
relocation of new downspouts and splash pads as directed by  
the Engineer should they interfere with exterior mounted doors  
and fixtures.**

Item C2

**South elevation 2/1A1: Delete note on replacement of existing gutters and downspouts and replace note as follows:  
Gutters and downspouts are being replaced with new gutters and downspouts by the city under a separate contract.**

4. Drawing 1M2, Roof Plan-Mechanical, Sheet 14, Item D1

**Keynote 5. notes keyed to 2/1M2, Floor Plan-Fire Protection.**

**Revise the first sentence of Key Note 5 to read as follows:**

**“Provide automatic piped dry chemical fire suppressant system for Oil Storage and Dispensing Room.**

City of Naples



# INVITATION TO BID

CITY OF NAPLES  
PURCHASING DIVISION  
270 RIVERSIDE CIRCLE  
NAPLES, FL 34102

PH: 239-213-7100 FX: 239-213-7105

MAILING DATE: 03/23/07	TITLE: RENOVATION & ADDITIONS MOTOR VEHICLE SERVICE BAYS 7 & 8	NUMBER: 041-07	OPENING DATE & TIME: 04/26/07 2:00PM
PRE-BID DATE, TIME AND LOCATION: April 9, 2007, 9:00 AM 270 Riverside Circle, Naples, FL 34102			MANDATORY

NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL: Bradanna, Inc.	
MAILING ADDRESS: 2805 Horseshoe Dr. S unit 12	
CITY-STATE-ZIP: Naples, FL 34104	
PH: (239) 455-8871	EMAIL: Brad @bradanna.com
FX: (239) 417-1249	WEB ADDRESS: www.Bradanna.com

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Naples the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Naples all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of FL for price fixing relating to the particular commodities or services purchased or acquired by the City of Naples. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the bidder.

AUTHORIZED SIGNATURE 	DATE 4/26/07	PRINTED NAME/TITLE Brad Steinmann
Please initial by all that apply		
<input checked="" type="checkbox"/> Addendum #1	<input type="checkbox"/> Addendum #2	<input type="checkbox"/> Addendum #3
<input type="checkbox"/> Addendum #4		

### PLEASE NOTE THE FOLLOWING:

- > This page must be completed and returned with your bid.
- > Bids must be submitted in a sealed envelope, marked with bid number & closing date.
- > Bids received after the above closing date and time will not be accepted.
- > If you do not have an email address and you want a copy of the Bid Tab, please enclose a stamped, self-addressed envelope with your bid.

**REFERENCES**

**THIS SHEET MUST BE COMPLETED AND RETURNED WITH BID**

**PROVIDE AT LEAST THREE REFERENCES FOR WHOM YOUR COMPANY HAS PROVIDED SAME OR SIMILAR SERVICES WITHIN THE LAST 2 YEARS.**

**COMPANY NAME:** Bonita Springs Fire Control & Rescue District

**ADDRESS:** 27701 Bonita Grand Dr

Bonita Springs, FL 34735

**TELEPHONE:** (239) 949-6200

**CONTACT PERSON:** Chief Phil Kinsey

**COMPANY NAME:** Collier County

**ADDRESS:** 3301 E Tamiami Trail

Naples, FL

**TELEPHONE:** (239) 530-5337

**CONTACT PERSON:** Dayne Atkinson

**COMPANY NAME:** Collier County Parks & Recreation

**ADDRESS:** 4600 Santa Barbara Blvd

Naples, FL

**TELEPHONE:** (239) 304-4245

**CONTACT PERSON:** Clint Perryman

SECTION 00300

BID PROPOSAL

CITY OF NAPLES  
RENOVATIONS AND ADDITIONS TO  
MV SERVICE BAYS # 7 & # 8  
BID NO. 041-07

Full Name of Bidder Bradanna, Inc

Main Business Address 2805 Horseshoe Dr S. Unit. 12 Naples, FL 34104

Place of Business Collier County

Telephone No. (239) 455-8891 Fax No. (239) 417-1249

State Contractor's License # CGC 1507312

To: **CITY OF NAPLES**, Purchasing Division, 270 Riverside Circle, Naples, FL 34102 (hereinafter called the **Owner**)

The undersigned, as Bidder declares that the only person or parties interested in this Proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation; that it has carefully examined the location of the proposed work, the proposed forms of Agreement and Bonds, and the Contract Drawings and Specifications, including Addenda issued thereto and acknowledges receipt below:

Addendum Number	Date Issued	Contractor's Initials
<u>#1</u>	<u>4/19/07</u>	<u>JB</u>
<u>          </u>	<u>          </u>	<u>          </u>
<u>          </u>	<u>          </u>	<u>          </u>

Bidder proposes, and agrees if this Proposal is accepted, Bidder will contract with the Owner in the form of the copy of the Agreement included in these Contract Documents, to provide all necessary machinery, tools, apparatus and other means of construction, including utility and transportation services necessary to do all the Work, and furnish and install all the materials and equipment specified or referred to in the Contract Documents in the manner and time herein prescribed and according to the requirements of the Owner as therein set forth, furnish the specified Contractor's Bonds and Insurance specified in the General Conditions of the Contract, and to do all other things required of the Contractor by the Contract Documents, and that it will take full payment the sums set forth in the following Bid Schedule:

NOTE: If you choose to bid, please submit in triplicate (ONE ORIGINAL and TWO COPIES) of your bid proposal package on this form.

BID SCHEDULE

**MV Service Bays # 7 and # 8**  
**Bid No. 041-07**

Having visited and become familiar with the conditions at the project site and having carefully examined the bidding requirements, drawings and specifications, the undersigned proposes to furnish all materials, labor, equipment and incidentals to complete the entire work in accordance with the design documents, applicable codes and ordinances as follows:

- A. **LUMP SUM BASE BID:** RENOVATIONS AND ADDITIONS TO THE M.V. SERVICE BAYS # 7 & # 8 INCLUDING FURNISHING OF ALL NECESSARY LABOR, MATERIALS, TOOLS, EQUIPMENT ETC. ALL COMPLETE, AS PER CONTRACT DOCUMENTS, GENERAL AND SUPPLEMENTARY CONDITIONS, SPECIAL CONDITIONS, DETAILS, SCHEDULES, STANDARD SPECIFICATIONS AND AS INDICATED ON ENGINEER'S PLANS & SPECIFICATIONS, DRAWINGS SHEETS 1-15.

<u>Price</u>	<u>Quantity</u>	<u>Unit</u>	<u>Total</u>
	1	LS	\$ <u>262,400</u>

- B. **UNIT PRICES:** FOR UNFORESEEN ADDITIONAL REQUIRED WORK NOT SHOWN ON THE DRAWINGS WHEN APPROVED BY THE ENGINEER AND THE OWNER. ACTUAL QUANTITIES MAY VARY.

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Additional cast-in-place concrete, including formwork, reinforcing and finishing.	4	CY	<u>960</u>	<u>\$ 3,840</u>
2	Additional block masonry work in place.	100	SF	<u>19.20</u>	<u>\$ 1,920</u>
3	Remove existing wall insulation and replace with new 3" fire rated insulation including necessary misc. galvanized steel and hardware as indicated on plans.	800	SF	<u>1.10</u>	<u>\$ 880</u>
4	Contingency Allowance for unforeseen and hidden conditions during construction. Amount of allowance shall be 10% of Base Bid Item A.		Allowance		<u>\$ 26,240</u>
			Sub Total B1 through B4		<u>\$ 32,880</u>

- C. **ALTERNATE BIDS:**

<u>Item</u>	<u>Description</u>	<u>Total Price</u>
1.	Add Alternate # 1: Demo north & south concrete approach slab aprons, replace with a new concrete slab apron and specified floor coating System-1 as shown on plans.	<u>\$ 11,057</u>

2. Add Alternate #2:  
Demo north concrete apron slab, replace with a new concrete slab and specified floor coating System-1 as shown on plans. \$ 12,819
3. Add Alternate #3.  
Service Bay # 5 West R.C. Door: Furnish and install one (1) electric operated, wind load & code compliant galvanized steel roll up curtain door to fit 17'-10"x 12'-6" opening to match existing Bay #6 RC Door with operators etc. \$ 7,306
4. Add Alternate #4  
Bays #1-4 West side Sectional Doors: Furnish and install four (4) electric Operated, wind load code compliant, galvanized steel sectional garage doors to fit 17'-10"x12'-6" opening with operators etc. \$ 15,920

Sub Total C1 through C4 \$ 47,102

**TOTAL BID PRICE** (Base Bid plus items B1 through B4 and C1 through C4) \$ 342,382

**TOTAL BID PRICE** in words (Base Bid plus items B1 through B4 and C1 through C4) \$ Three hundred forty two thousand three hundred eighty two dollars  
(Total bid price in words)

We acknowledge receipt of the following Design Professional's documents:

- Engineer's Plans & Specifications, Drawings, sheets 1 through 15

The following documents are attached to and made a condition of this Bid:

1. Statement of Relevant Experience (Exhibit E1)
2. List of Subcontractors (Exhibit E2)
3. List of Material Manufacturers (Exhibit E3)
4. Trench Safety Affidavit (Exhibit E4)
5. Bid Security (surety bond or cashier's check, Section 00410)
6. Corporate Resolution (Section 00420)

Bidder agrees to submit Application for Payment on the prescribed Application for Payment form and submit specified Release of Liens and Affidavit Forms for payment under this contract. Ten (10) % shall be withheld from each payment until satisfactory completion of Punch List corrections and acceptance by the Engineer and the Owner and the work is certified Substantially Complete by the Engineer.

**NOTE:** Please return this bid form to the above address. **NO OTHER BID FORM WILL BE ACCEPTED.**



Bidder accepts the provisions of the Agreement as to the liquidated damages of \$250.00 per day in the event of failure to "Substantially Complete" (certified by the Engineer) the Work and additional liquidated damages of \$150.00 per day for failure to achieve "Final Completion" of the Work, both within the specified time schedule.

The service to be furnished by us is hereby declared and guaranteed to be in conformance with the project plans and specifications.

In submitting this bid, the Bidder makes all representations required by the Invitation to Bid and Instructions to Bidders and further warrants and represents the following:

1. Bidder is aware of the general nature of Work to be performed by Owner and others at the site as it relates to this Work indicated in the contract documents.
2. Bidder has given the Engineer written notice of all conflicts, errors, ambiguities or discrepancies that the Bidder has discovered in the Contract Documents and the written resolution thereof by the Engineer is acceptable to the Bidder and the Contract Documents are sufficient to indicate and convey understanding that all Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this bid is submitted.

Upon receipt of written notice of the conditional acceptance of this Bid, Bidder will execute the formal Contract attached within **ten (10)** calendar days and deliver the Surety Bond or Bonds and Insurance as required by the Contract Documents. The bid security attached in the sum of: Seventeen thousand two hundred dollars (\$ 17,200.<sup>00</sup>) is to become the property of the Owner in the event the Contract, Insurance and Bonds are not executed within the time above set forth for the delay and additional expense to the Owner.

If awarded a contract under this Proposal, the undersigned agrees to commence work at the site within 7 calendar days from the commencement date stipulated in the written "Notice to Proceed" unless the Project Manager, in writing, subsequently notifies the Contractor of a modified (later) commencement date. The undersigned further agrees to "**Substantially Complete**" (certified by the Engineer) all work covered by this Proposal within (180) consecutive calendar days, computed by excluding the commencement date and including the last day of such period, and to be fully completed to the point of certified "**Final Acceptance**" by the Engineer and Owner within (210) consecutive calendar days, computed by excluding commencement date and including the last day of such period.

Respectfully Submitted:

State of Florida  
County of Collier

Brad Steinmann, being first duly sworn on oath deposes and says that the Bidder on the above Proposal is organized as indicated and that all statements herein made are made on behalf of such Bidder and that this deponent is authorized to make them.

Brad Steinmann, also deposes and says that it has examined and carefully prepared its Bid Proposal from the Contract Drawings and Specifications and has checked the same in detail before submitting this Bid; that the statements contained herein are true and correct.



(a) Corporation

The Bidder is a corporation organized and existing under the laws of the State of FL, which operates under the legal name of Bradanna, Inc, and the full names of its officers are as follows:

President Joe Steinmann

Secretary Brad Steinmann

Treasurer Brad Steinmann

Manager Brad Steinmann

and it (does) or (~~does not~~) have a corporate seal. The Vice President is authorized to sign construction proposals and contracts for the company by action of its Board of Directors taken April 26, 2007, a certified copy of which is hereto attached (strike out this last sentence if not applicable).

(b) Co-Partnership

The Bidder is a co-partnership consisting of individual partners whose full names are as follows:

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

The co-partnership does business under the legal name of:

\_\_\_\_\_

(c) Individual

The Bidder is an individual whose full name is \_\_\_\_\_, and if operating under a trade name, said trade name is \_\_\_\_\_.

DATED \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

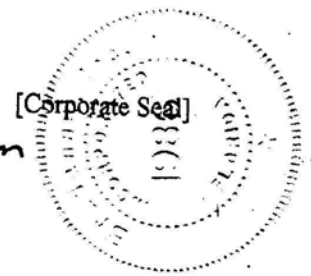
\_\_\_\_\_  
Legal entity

BY: \_\_\_\_\_  
Name of Bidder (Typed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Telephone and e-mail address: ph 239-435-8891 / brad@bradanna.com

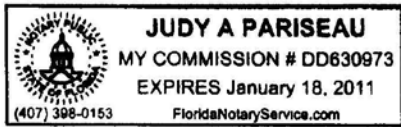


STATE OF FLORIDA

COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 26 day of April, 2005, by Brad Steinmann, as Vice President of Bradanna, Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

My Commission Expires:



Judy A Pariseau  
(Signature of Notary)

NAME: Judy A Pariseau  
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of Florida

Commission No.: DD630973

EXHIBIT E1

STATEMENT OF RELEVANT EXPERIENCE

The Bidder is required to state below what work of similar magnitude is a judge of its experience, skill and business standing and of its ability to conduct the work as completely and as rapidly as required under the terms of the contract.

NAME OF BIDDER: Bradanna, Inc

BUSINESS ADDRESS: 2805 Horseshoe Dr S. Unit 12 Naples, FL 34104

Telephone No.: 239-455-8891

CONTRACTOR'S FLORIDA LICENSE NO. CGC 1507312

QUESTIONNAIRE:

1. Years organization has been in business as a General Contractor: 21
2. Have you ever failed to complete the work awarded to you? If so, where and why?  
No

RELEVANT EXPERIENCE

<u>Project and Location</u>	<u>Reference</u>
1. <u>East Naples Community Park</u> <u>Naples, FL</u>	<u>Clint Perryman (239) 304-4245</u>
2. <u>Collier County Landfill Scalehouse</u> <u>Naples, FL</u>	<u>Nester Fernandez (305) -884-8900</u>
3. <u>Golden Gate Community Park</u> <u>Naples, FL</u>	<u>Clint Perryman (239) 304-4245</u>
4. <u>Bonita Springs Fire Station #2</u> <u>Bonita Springs, FL</u>	<u>Chief Phil Kinsey (239) 949-6200</u>

Dated 4/26/07

Bradanna, Inc  
Bidder

BY: [Signature]

EXHIBIT E2

LIST OF SUBCONTRACTORS

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the Project Manager. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, certifications, registrations and insurance coverage. The City reserves the right to disqualify any bidder who includes non-compliant or non-qualified subcontractors in his/her bid offer. Further, the City may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the City. THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE. (Attach additional sheets as needed).

<u>Subcontractor and Address</u>	<u>Specialty</u>
1. <u>Service Painting - 12140 Metro Parkway</u> <u>Suite K Ft Myers, FL 33966</u>	<u>Painting</u>
2. <u>CTI - 1790 Maywood Ct.</u> <u>Marco Island, FL 34145</u>	<u>Epoxy Coating</u>
3. <u>EPA - 2115 Central Ave.</u> <u>Fort Myers, FL 33901</u>	<u>HVAC</u>
4. <u>Bradanna, Inc - 2805 Horseshoe Dr S</u> <u>Unit 12 Naples, FL 341</u>	<u>Site Work</u>
5. <u>Congar Cutting - 6391 Arc Way</u> <u>Ft. Myers, FL 33912</u>	<u>Concrete Cutting</u>
6. <u>Cement Industries - 2709 Jeffcott St.</u> <u>Ft Myers, FL 33901</u>	<u>Precast Slabs</u>

Dated 4/26/07

Bradanna, Inc  
Bidder  
BY: [Signature]

**EXHIBIT E2**

**LIST OF SUBCONTRACTORS**

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the Project Manager. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, certifications, registrations and insurance coverage. The City reserves the right to disqualify any bidder who includes non-compliant or non-qualified subcontractors in his/her bid offer. Further, the City may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the City. **THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE.** (Attach additional sheets as needed).

<u>Subcontractor and Address</u>	<u>Specialty</u>
1. <u>Sutter Roofing - 6260 Metro</u> <u>Plantation Rd. Ft Myers, FL</u>	<u>Roofing</u>
2. <u>Environmental Professional Associates</u> <u>2115 Central Ave. Ft. Myers, FL</u>	<u>Mechanical</u>
3. <u>West Coast Fire Protection -</u> <u>2991 Golden Gate Blvd. Naples, FL</u>	<u>Fire Protection</u>
4. <u>Diamond B Electric - 6920 Amity</u> <u>Rd. Naples, FL</u>	<u>Electrical</u>
5. <u>RiR Plumbing - 1060 11th St. N.</u> <u>Naples, FL</u>	<u>Plumbing</u>
6. <u>Concrete Technology Inc - 1790</u> <u>Maywood Ct Marco Island, FL</u>	<u>Epoxy Coating</u>
Dated <u>4/30/07 (see attached)</u>	<u>Broadanne, Inc</u> Bidder

BY: Jim Bryant

EXHIBIT E2

LIST OF SUBCONTRACTORS

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the Project Manager. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, certifications, registrations and insurance coverage. The City reserves the right to disqualify any bidder who includes non-compliant or non-qualified subcontractors in his/her bid offer. Further, the City may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the City. THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE. (Attach additional sheets as needed).

<u>Subcontractor and Address</u>	<u>Specialty</u>
1. <u>Service Painting 12140 Metro Parkway</u> <u>Suite K Ft. Myers, FL</u>	<u>Painting</u>
2. <u>Omega Garage Doors, Inc 4010-B</u> <u>Warehouse Rd. Ft Myers, FL</u>	<u>R.C. Doors</u>
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

Dated 4/30/07 (see attached)

Bradanna, Inc  
Bidder

BY: Jan Bryant

EXHIBIT E3

MATERIAL MANUFACTURERS

The Bidder is required to state below, material manufacturers it proposes to utilize on this project. No change will be allowed after submittal of Bid. If substitute material proposed and listed below is not approved by Engineer, Bidder shall furnish the manufacturer named in the specification. Acceptance of this Bid does not constitute acceptance of material proposed on this list. **THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE.**

<u>MATERIAL</u>	<u>MANUFACTURER</u>
1. <u>Epoxy Coating</u>	<u>Dura Flex</u>
2. <u>Paint</u>	<u>Sherwin Williams</u>
3. <u>Concrete</u>	<u>CMEX</u>
4. <u>Louvers</u>	<u>Buskin</u>
5. <u>Wash Fountain</u>	<u>Bradley</u>
6. <u>Hose Bibb</u>	<u>Woodford</u>

Dated 4/26/07

Bradanna, Inc  
Bidder

BY: [Signature]

EXHIBIT E4

TRENCH SAFETY ACT

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

<u>Trench Safety Measure (Description)</u>	<u>Units of Measure (LF, SY)</u>	<u>Unit (Quantity)</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
1. <u>N/A</u>	<u>LF</u>	<u>0</u>	<u>_____</u>	<u>N/A</u>
2. <u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
3. <u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
			TOTAL	\$ <u>_____</u>

Failure to complete the above may result in the Bid declared non responsive.

DATE 4/26/07

Bradanna, Inc  
Bidder  
By: [Signature]



**SECTION 00410**

**BID BOND**

**RETURN IN DUPLICATE WITH BID  
NOT TO BE FILLED OUT IF A CERTIFIED CHECK IS SUBMITTED.**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned,  
Bradanna, Inc. as Principal,

and North American Specialty Insurance Company as Surety

are held and firmly bound unto the City of Naples, Florida, in the sum of  
\$ Five Percent of the Total Amount Bid for the payment of which, will and truly to be made,  
we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that if the attached Proposal of Principal and Surety for work  
specified as:

**Renovations & Additions  
Motor Vehicle Services Building  
Service bays # 7 and 8  
Naples, Florida**

all as stipulated in said Proposal, by doing all work incidental thereto, in accordance with the plans and  
specifications provided heretofore, all within Collier County, is accepted and the bidder shall within ten (10)  
days after notice of said award, enter into a contract, in writing, and furnish the required Performance Bond  
with surety or sureties to be approved by the Director of Purchasing, this obligation shall be void; otherwise  
the same shall be in full force and virtue by law and the full amount of this Proposal Bond will be paid to  
the City as stipulated or liquidated damages.

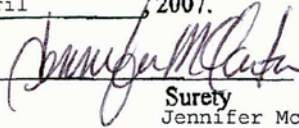
Signed this 26th day of April, 2007.



Principal  
Bradanna, Inc.

*Brad Steinmann V.P.*

Principal must indicate whether corporation, partnership, company, or individual.

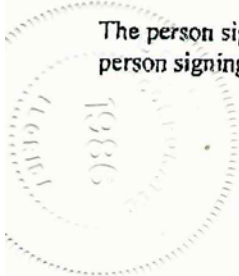


Surety

North American Specialty Insurance Company

Jennifer McCarta, Attorney-In-Fact & Florida  
Inquiries: (407) 834-0022 Licensed Resident Agent

The person signing shall, in his own handwriting, sign the Principal's name, his own name, and his title. The  
person signing for a corporation must, by affidavit, show his authority to bind the corporation.



SECTION 00420

CORPORATE RESOLUTION

I, Brad Steinmann, Secretary of Bradanna, Inc.

\_\_\_\_\_ a corporation organized and existing under the laws of the State of Florida, hereby certify that at a meeting of the Board of Directors of the Corporation duly called and held on April 20, 2007 at which a quorum was present and acting throughout, the following resolutions were adopted and are now in full force and effect:

RESOLVED that the following individuals of this corporation are authorized to execute on behalf of this corporation a Bid and Agreement to City of Naples, Florida for the construction of Renovations & Additions Motor Vehicle Services Building Service bays # 7 & 8

I further certify that the names of the officers of this corporation and any other persons authorized to act under this resolution and their official signatures are as follows:

NAME	OFFICER	OFFICIAL SIGNATURE
<u>Joe Steinmann</u>	<u>President</u>	<u>[Signature]</u>
<u>Brad Steinmann</u>	<u>V.P. - Secretary</u>	<u>[Signature]</u>
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the corporation this 26th day of April, 2007.

END OF SECTION

00420-1

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of Arizona and having its principal office in the City of Itasca, Illinois, each does hereby make, constitute and appoint:

J.W. GUIGNARD, BRYCE R. GUIGNARD, M. GARY FRANCIS, PAUL J. CIAMBRIELLO,

APRIL L. LIVELY, JENNIFER McCARTA, BRETT RAGLAND and MARGIE MORRIS

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

TWENTY-FIVE MILLION (\$25,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 24th of March, 2000:

"RESOLVED, that any two of the President, any Executive Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature] Steven P. Anderson, President & Chief Executive Officer of Washington International Insurance Company & Vice President of North American Specialty Insurance Company



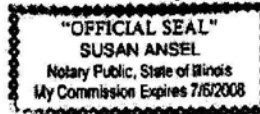
By [Signature] David M. Layman, Vice President of Washington International Insurance Company & Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 12th day of March, 2007.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Du Page ss:

On this 12th day of March, 2007, before me, a Notary Public personally appeared Steven P. Anderson, President and CEO of Washington International Insurance Company and Vice President of North American Specialty Insurance Company and David M. Layman, Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature] Susan Ansel, Notary Public

I, James A. Carpenter, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 26th day of April, 2007.

[Signature] James A. Carpenter

James A. Carpenter, Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company

STRUCTURAL  
INVESTIGATIONS  
REPORTS

INSPECTIONS  
FAILURE ANALYSIS

**KRIS JAIN & ASSOC., INC.**  
CONSULTING ENGINEERS

4439 LAKEWOOD BLVD., NAPLES, FL 34112  
PH: (239) 262-4225. FAX: (239) 262-4101  
Email: kjain0001@aol.com

City of Naples  
Construction Management Dept.  
295 Riverside Circle  
Naples, FL 34102

April 1, 2007

Attn: David Graff  
City Project Manager

Ref: Additions & Renovations  
M.V. Service Bays 7 & 8  
Bid # 041-07  
Engineer's Bid Recommendations

Gentlemen:

As the Project Engineer on the referenced facility, we have reviewed the five bids received by the City Purchasing Department on 4/26/07 for technical aspects and find them satisfactory. Legal requirements are presumed handled by the City staff.

Bradanna Inc. has submitted the lowest bid with a total price of \$342,382.00 which includes the various unit prices, contingency allowance (10%) and the four alternate bids. The bid breakdown appears satisfactory and in order. The total bid amount of \$342,382.00 is well within the engineer's projected estimate of \$377,000 to \$452,000 and the City's budget for this project. Therefore, all the various options can be included at this time.

Based upon the references provided by Bradanna Inc., we find them to be experienced and responsive General Contractor. We recommend contract award to them for a total bid amount of \$342,382.00, inclusive of the unit prices, contingency allowance and the 4 alternate bids.

Should there be any questions, please let us know.

Very truly yours,

KRIS JAIN & ASSOC., INC.



Kris K. Jain, P.E.  
President

Mw:MVBidrecm1

MEMBER:

FES

NSPE

ASCE

ACI