



BOARD OF TRUSTEES
July 14, 2020
6:30 PM

Regular Meeting

Join Zoom Meeting
<https://zoom.us/j/320850513>
Dial by your location +1 346-248-7799
Meeting ID: 921 1521 6052

AGENDA

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment -
 2. Presentation
 - a. Utility Rate - Update
 - Staff presentation: Tyler Sexton, Interim Finance Director
 - b. Wellington Fire Protection District - Structure Fire Update

C. CONSENT AGENDA

1. Resolution Extending Approval of the Conditional Annexation for Country Lane Acres

D. ACTION ITEMS

1. 2020 Old Town Street Repair

- Staff presentation: Vincent Gentry, Engineering Technician III and Bob Gowing, Public Works Director

2. Resolution 25-2020 - A Resolution of the Board of Trustees Appointing a Town Clerk

- Staff presentation: Brad March, Town Attorney

3. Resolution 26-2020 - A Resolution Amending Hours of Outdoor Watering

- Staff presentation: Brad March, Town Attorney

E. OTHER BOARDS

1. Liquor License Review Board

El Mezcal, Inc, d/b/a Sol de Jalisco Mexican Restaurant

F. REPORTS

1. Town Attorney

2. Town Administrator

- a. Executive Search Firm for Town Administrator

3. Staff Communications

- a. Bulk Water Station Update

- b. Larimer County Sheriff's Office Monthly Report - May, 2020

4. Board

G. EXECUTIVE SESSION (If Needed)

H. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.

Board of Trustees Meeting

Date: July 14, 2020

Submitted By:

Utility Rate - Update

Subject:

- **Staff presentation: Tyler Sexton, Interim Finance Director**

EXECUTIVE SUMMARY

The utility rate update was present on the June 16, 2020 Work Session. The Board had additional questions and requests. The Board requested additional figures assuming a 2020 4th quarter implementation date.

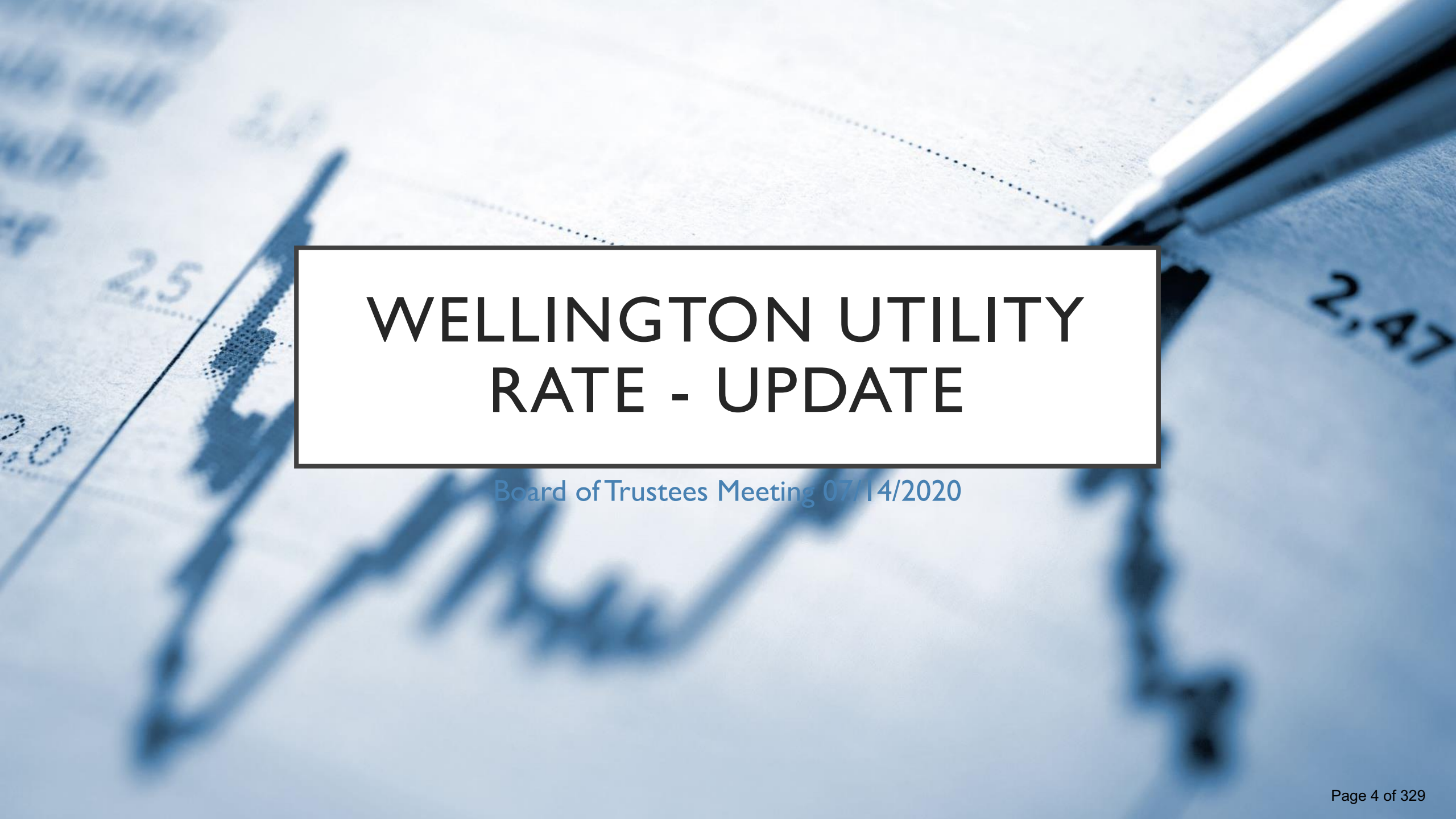
BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Staff recommends the Board approve scenario 3 and take action to approve a resolution to set new water rates for 4th quarter 2020 and 2021 at the July 28, 2020 Board meeting.

ATTACHMENTS

1. Utility Rate - Final

The background of the slide is a blurred image of a line graph on a document. A pen is visible in the upper right corner, pointing towards the graph. The graph shows a line with several peaks and valleys. Some numbers are visible on the graph, such as '2.5' and '2.47'.

WELLINGTON UTILITY RATE - UPDATE

Board of Trustees Meeting 07/14/2020

OVERVIEW

- Utility Rate Recap
- 2020 4th Quarter Rate Increases
- Scenarios
- Pros and Cons
- Communication Timeline
- Questions

RATE RECAP

- Woodard & Curran presented utility recommendations on 04/29/2020.
 - Wastewater – No change
 - Storm Water

Stormwater Rates - (\$/month)							
Current		2020	2021	2022	2023	2024	2025
Rate Increase (%) - Town		0.0%	12.0%	12.0%	12.0%	3.0%	2.0%
Rate Increase (%) - AUTH		0.0%	12.0%	12.0%	12.0%	3.0%	2.0%
\$6.33	Resi - Town	\$6.33	\$7.09	\$7.94	\$8.89	\$9.16	\$9.34
\$9.25	Comm. - Town	\$9.25	\$10.36	\$11.60	\$13.00	\$13.39	\$13.65
\$5.00	Resi - Auth	\$5.00	\$5.60	\$6.27	\$7.02	\$7.24	\$7.38
varies	Comm - Auth	Increase impervious surface sq. footage charges by same percentage as other rates					

- Water – Currently being evaluated

2020 4TH QUARTER INCREASE TO MAINTAIN FUND BALANCE POLICY

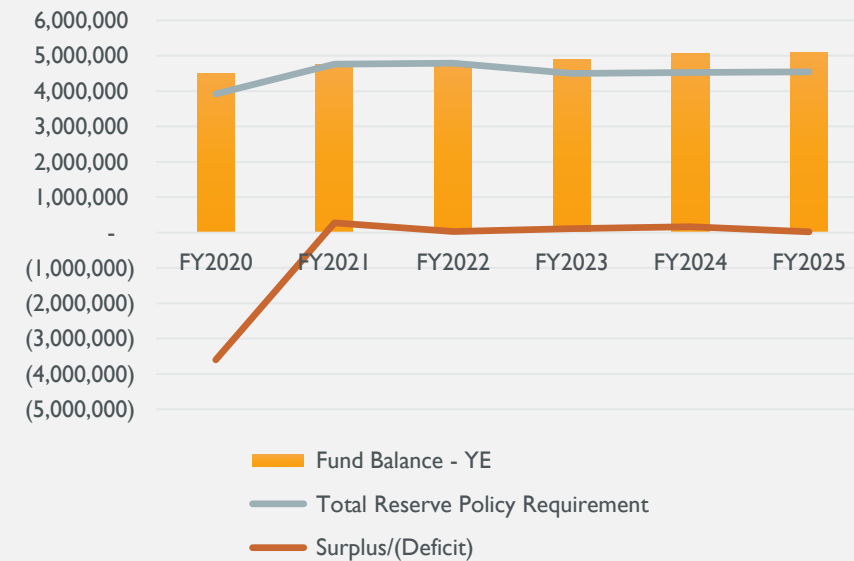
4 th Quarter Ending Base Rate	4 th Quarter Percentage Increase	2021 Required Base Rate	2021 Percentage Increase
\$18.86	0%	\$74.94	297% (Scenario I)
\$20.00	6%	\$74.58	273%
\$25.00	33%	\$73.00	192%
\$30.00	59%	\$71.42	138%
\$35.00	86%	\$69.83	100% (Scenario II)
\$40.00	112%	\$68.25	71%
\$45.00	139%	\$66.67	48%
\$50.00	165%	\$65.09	30%
\$55.00	192%	\$63.51	15%
\$60.00	218%	\$61.93	3% (Scenario III)
\$65.00	245%	\$60.34	-7%
\$70.00	271%	\$58.76	-16%
\$75.00	298%	\$57.18	-24%

- For every \$5.00 increase in 2020 4th quarter, results in approximately \$1.58 decrease in required base rate increase in 2021.

SCENARIO I

	Base Rates	% Change	Total Bill (7,000 Gallons)
FY 2020	\$18.86		\$82.88
FY 2021	\$74.94	297%	\$146.69
FY 2022	\$69.08	-8%	\$150.33
FY 2023	\$54.00	-22%	\$138.98
FY 2024	\$53.27	-1%	\$138.74
FY 2025	\$51.34	-4%	\$137.13

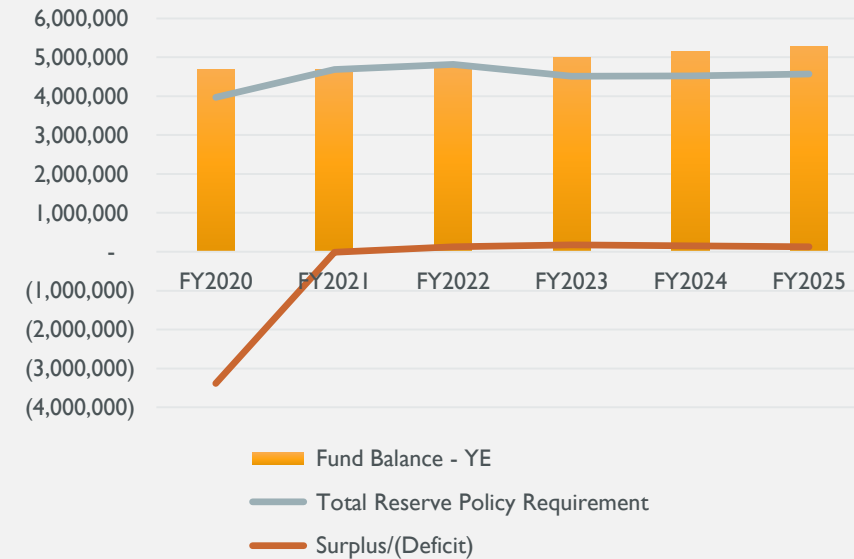
Water Utility – Projected Rate Performance



SCENARIO II

	Base Rates	% Change	Total Bill (7,000 Gallons)
FY 2020	\$35.00	86%	\$99.02
FY 2021	\$69.83	100%	\$141.58
FY 2022	\$70.68	1%	\$148.73
FY 2023	\$55.00	-22%	\$139.98
FY 2024	\$53.00	-4%	\$138.47
FY 2025	\$53.00	0%	\$138.79

Water Utility – Projected Rate Performance

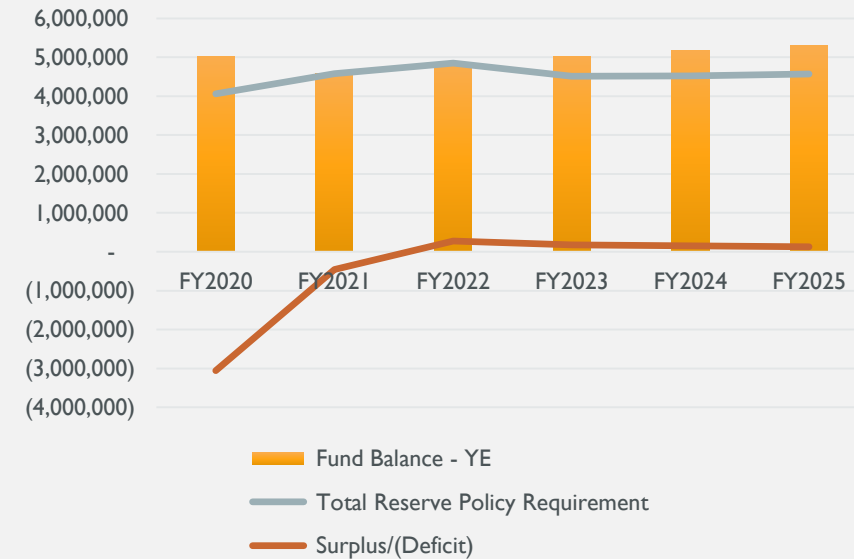


SCENARIO III

STAFF RECOMMENDATION

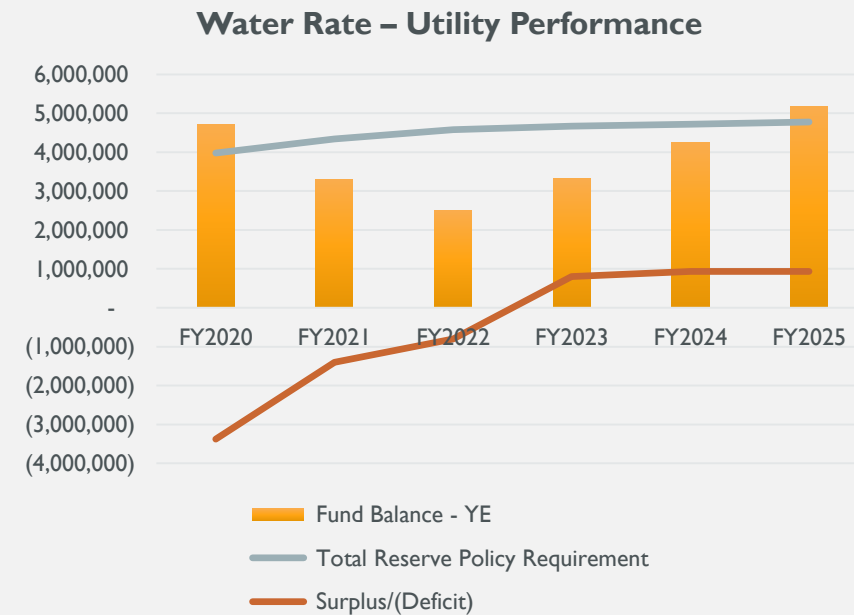
	Base Rates	% Change	Total Bill (7,000 Gallons)
FY 2020	\$60.00	218%	\$124.02
FY 2021	\$61.93	3%	\$133.68
FY 2022	\$73.17	18%	\$154.42
FY 2023	\$55.00	-25%	\$139.98
FY 2024	\$53.00	-4%	\$138.47
FY 2025	\$53.00	0%	\$138.79

Water Utility – Projected Rate Performance



SCENARIO IV

	Base Rates	% Change	Total Bill (7,000 Gallons)
FY 2020	\$36.00	91%	\$100.02
FY 2021	\$45.00	25%	\$116.75
FY 2022	\$55.00	22%	\$136.25
FY 2023	\$65.00	18%	\$149.98
FY 2024	\$65.00	0%	\$150.47
FY 2025	\$65.00	0%	\$150.79



PROS & CONS

SCENARIO I

Pros

- Maintains current pay structure for 2020
- After initial 297% increase users can expect decrease in rates going forward
- Maintains fund balance policy

Cons

- 297% increase in 2021
- Largest base rate increases of all scenarios

SCENARIO II

Pros

- Step like structure
- Users max base rate will be least of all scenarios. The \$70.68 base rate is \$4.26 less than Scenario I
- Maintains fund balance policy

Cons

- Users will experience three years of rate increases
- Two of the rate increases will be 100% increases

SCENARIO III

Pros

- Staff believes this is the best option.
- After initial increase, less dramatic increases. 2021 increase is 3% and then 2022 increase is 18%
- User less impacted by second required rate increase of 3%
- Maintains fund balance policy

Cons

- 2nd largest base rate increase of all scenarios

SCENARIO IV

Pros

- Step Structure
- After initial jump users will not experience more than 25% increase

Cons

- Does not comply with fund balance policy
- User will experience 3 years of rate increases
- Uncertain future can result in fund balance reserve not recovering
- Fund balance reserves will be lowest of all scenario's, as low as \$2,500,000

COMMUNICATION TIMELINE

- August 1st – Utility billing insert with survey link
 - Communication survey sent via social media and utility billing link
 - Survey available at Town Hall, Annex, and Post Office.
- August 24th – Survey closes
- September 8th – Staff shares results of community outreach efforts
- September 22nd – Board approves utility rates
- October 1st – New utility rates go into effect

QUESTIONS?



Board of Trustees Meeting

Date: July 14, 2020
Submitted By: Cody Bird, Planning Director
Subject: Resolution Extending Approval of the Conditional Annexation for Country Lane Acres

EXECUTIVE SUMMARY

Ordinance 1-2020 was adopted conditionally annexing Country Lane Acres into the Town, conditioned upon entering into an annexation agreement. As a result of COVID-19 and other factors, additional time is needed to reach agreement and record the annexation agreement. An extension to the conditions of Ordinance 1-2020 can be granted by adoption of a resolution.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Adopt a resolution granting an extension to the conditions of Ordinance 1-2020 for the annexation of Country Lane Acres to December 15, 2020.

ATTACHMENTS

1. Attorney Memo
2. RESOLUTION 27-2020



Board of Trustees COMMUNICATION

Meeting Date: 7/14/20	Page 1 of 1	Item: Extension of Country Lane Annexation deadlines
Agenda No.:	Presented by: Town Attorney	

The annexation of Country Lane Farms was approved on January 14, 2020 subject to a condition that the parties would negotiate a suitable annexation agreement within 6 months. As a result of restrictions on access to town hall it has proven difficult to complete these negotiations and the proposed resolution extends the annexation agreement deadline by an additional 6 months.

RESOLUTION NO. 27-2020

**A RESOLUTION BY THE WELLINGTON BOARD OF TRUSTEES
GRANTING EXTENSION OF APPROVAL OF THE CONDITIONAL ANNEXATION
OF COUNTRY LANE ACRES**

Whereas, the Town Board of Wellington Colorado (the “Town Board”) granted conditional approval of the annexation of County Lane Acres by Ordinance 1-2020 on January 14, 2020; and

WHEREAS, approval of the annexation was conditioned on the Annexor and Town entering into a mutually agreeable annexation agreement; and

WHEREAS, as a result of unforeseen circumstances, including interruption of services as a result of the COVID-19 virus pandemic, the parties have not agreed to an annexation agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

The Town Board grants an extension to the conditions of Ordinance 1-2020 to December 15, 2020, to afford the Annexor and Town an opportunity to negotiate a mutually agreeable annexation agreement for the Annexation of country lane acres.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 14th day of July, 2020

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Kelly Houghteling, Interim Town Administrator/ Clerk

Board of Trustees Meeting

Date: July 14, 2020

Submitted By:

2020 Old Town Street Repair

Subject:

- **Staff presentation: Vincent Gentry, Engineering Technician III and Bob Gowing, Public Works Director**

EXECUTIVE SUMMARY

Town Staff has reviewed the proposals and contacted various references. Staff recommends the Town Board authorize Staff to execute the following professionals selected to complete the 2020 Old Town street repair project.

- Lightfield Enterprises Inc. for the 2020 Town of Wellington Road Concrete repair project
- Connell Resources Inc. for the 2020 Town of Wellington Road Asphalt repair project
- Coyote Ridge Construction, LLC. for the 2020 Town of Wellington Fire hydrant replacement project
- Terracon Consultants Inc. for the 2020 Town of Wellington Street repair project

BACKGROUND / DISCUSSION

The Town of Wellington requested proposals from many qualified professional firms to acquire services to aid in the repair of failing street infrastructure within the Town of Wellington. The main services requested in these contracts are outlined as follows:

Asphalt replacement project

- Traffic control
- Placement of asphalt patching adjacent to new concrete edge
- Removal of asphalt in designated areas and placement of asphalt patches to repair pavement failures
- Edge and butt milling the existing asphalt surface, placing an asphalt
- Placement of asphalt leveling courses to smooth road for final paving
- Placement of the top lift asphalt course and Project Cleanup

Concrete replacement project

- Traffic control
- The removal and replacement of concrete curbs, gutters, sidewalks, crosspans, aprons, drive approaches, inlets, and pedestrian access ramps
- Placement of granular base patching adjacent to new concrete edge
- Project Cleanup

Fire hydrant replacement project



- Traffic control
- The removal and replacement of fire hydrant assembly's that are in the immediate work area of the Old Town street repair project
- Identify locations within the old town area that require fire hydrant replacement / addition to improve the Town's water system

Construction materials testing

Materials testing for all phases of the Old Town street repair project

The streets that these projects will be completed on are as follows:

- Ruffian Way and Mammoth Circle (1 intersection)
- Viewpoint Drive and Adams Drive (1 intersection)
- 3rd Street (Wilson to Henderson) (1 block, 1 FH)
- 4th Street (Cleveland to Harrison) (1 block)
- 4th Street (Grant to Wilson) (2 blocks)
- 5th Street (Hays to Grant) (1 block)
- 6th Street (Harrison to Grant) (3 blocks)
- Adams Court and Kit Fox Drive (1 intersection) (add alternate)
- Harrison Avenue and 3rd Street (1 block) (add alternate)
- Franklin Avenue (2 FH)
- Boxelder Court (1 FH)

This project will utilize the following GL's with the not to exceed amounts:

211-80-4006 (\$449,440.00)

211-80-4038 (\$56,180.00)

211-80-4039 (\$30,000.00)

211-80-4018 (\$60,000.00)

211-80-4021 (\$200,000.00)

STAFF RECOMMENDATION

Authorize Staff to execute the following contracts:

-
- Lightfield Enterprises Inc. concrete bid for \$144,599.00
- Connell Resources Inc. asphalt bid for \$258,128.00
- Coyote Ridge Construction LLC. Fire hydrant replacement bid for \$54,168.50
- Terracon Consultants, Inc. materials bid for \$11,745.00

ATTACHMENTS

1. Bid summary
2. 2020 TOW STREET REPAIRS-Bid Set-ADD 3
3. 2020 Wellington Road Asphalt Repair Project Bid Submittal



4. 2020 Wellington Road Asphalt Repair Contract
5. 2020 Wellington Road Concrete Repair Project Bid Submittal
6. 2020 Wellington Road Concrete Repair Contract
7. 2020 Materials OTS Signed 07-08-20
8. 2020 Wellington FH replacement

2020 Town of Wellington Road Asphalt Repair Project

Company	Base Bid	Additional Alternative	Total
Engineers Estimate	\$205,178.98	\$7,979.24	\$ 213,158.22
All Pro Pavement	\$229,249.00	\$6,333.00	\$ 235,582.00
Connell Resources	\$252,362.00	\$5,766.00	\$ 258,128.00

2020 Town of Wellington Road Concrete Repair Project

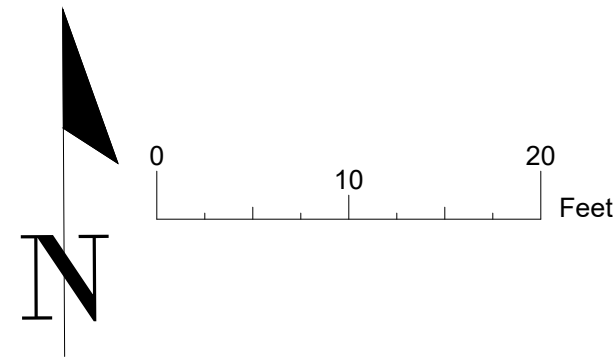
Company	Base Bid	Additional Alternative	Total
Engineers Estimate	\$156,802.50	\$29,714.96	\$186,517.46
NORRA Concrete	\$200,128.00	\$37,088.00	\$ 237,216.00
NorthStar Concrete	\$162,640.00	\$30,206.00	\$ 192,846.00
All Pro Pavement	\$218,330.00	\$45,465.00	\$ 263,795.00
Mountain Constructors	\$223,167.00	\$72,234.00	\$ 295,401.00
Lightfield Enterprises	\$144,559.00	\$26,567.00	\$ 171,126.00
Front Range Concrete	\$161,058.00	\$30,100.00	\$ 191,158.00
TLM Constructors	\$275,950.00	\$50,216.00	\$ 326,166.00

2020 Town of Wellington Road Testing Repair Project

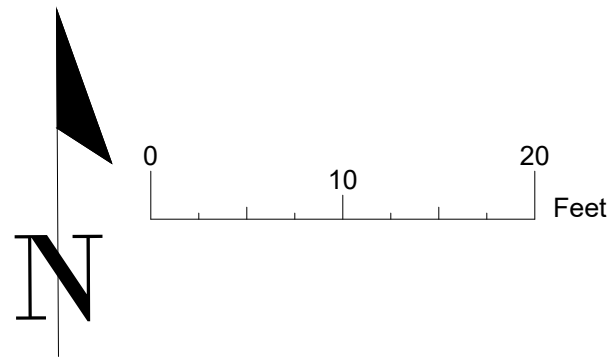
Company	Base Bid	Additional Alternative	Total
Engineers Estimate	\$15,255.34	\$2,440.86	\$17,696.20
CTL Thompson	\$12,700.00	\$2,450.00	\$ 15,150.00
EEC	\$9,841.00	\$2,677.40	\$ 12,518.40
Terracon	\$8,760.00	\$2,985.00	\$ 11,745.00

2020 Town of Wellington FH Repair Project

Company	Base Bid	Total
Robert Excavation	\$53,632.00	\$ 53,632.00
Turner Excavation	\$44,165.00	\$ 44,165.00
Coyote Ridge Construction	\$38,798.00	\$ 38,798.00



RUFFIAN WAY INTERSECTION



VIEWPOINT DRIVE INTERSECTION

DRAWN BY:	V. GENTRY	REV. 1
CHECKED BY:	B. GOWING	REV. 2
DATE:	06-16-2020	REV. 3
		REV. 4

OLD TOWN STREET REPAIRS
RUFFIAN WAY/MAMMOTH CIRCLE
AND VIEWPOINT DRIVE/ADAMS DRIVE
INTERSECTION PLANS

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV



SITE PLAN
AND
QTY'S



3RD STREET BLOCK



4TH STREET AND CLEVELAND BLOCK

DRAWN BY:	V. GENTRY	REV. 1
CHECKED BY:	B. GOWING	REV. 2
DATE:	06-16-2020	REV. 3
		REV. 4

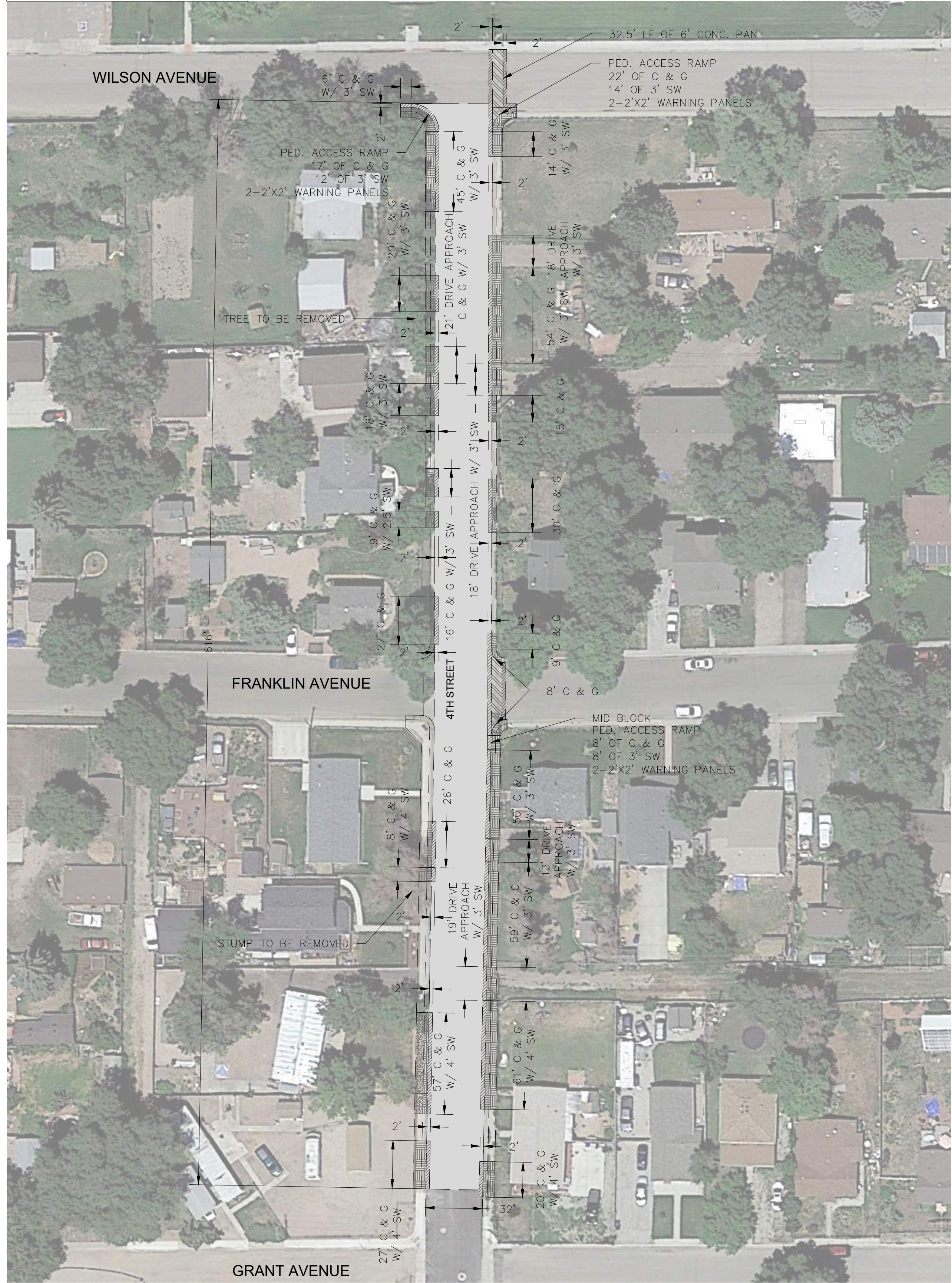
OLD TOWN STREET REPAIRS
3RD STREET BLOCK PLAN
AND
4TH STREET AND CLEVELAND BLOCK PLAN

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV



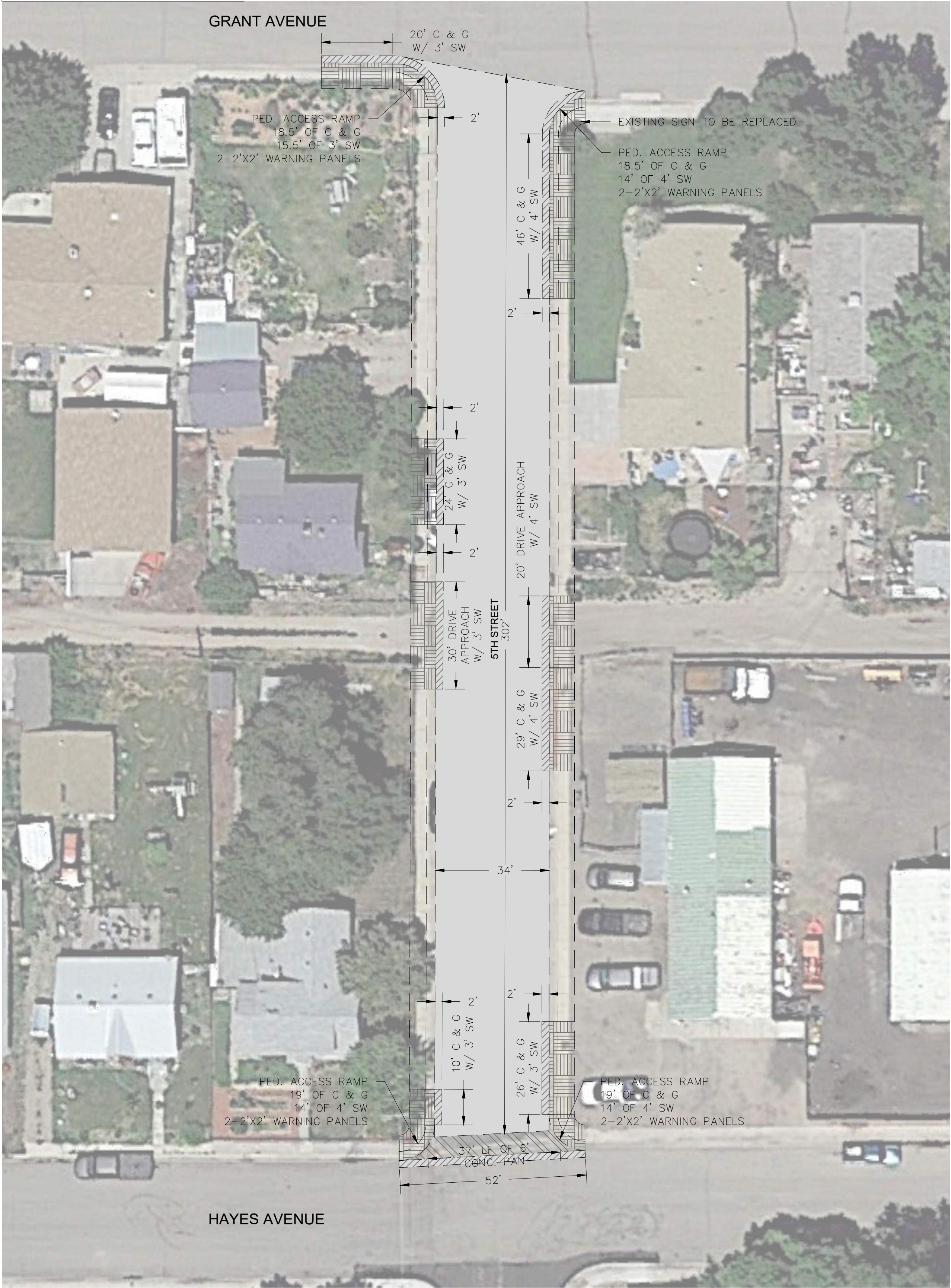
SITE PLAN
AND
QTY'S

MANHOLES TO BE RE-RINGED 2
VALVE BOX LIDS TO BE RE-RINGED 2



4TH STREET AND GRANT BLOCK

MANHOLES TO BE RE-RINGED 1
VALVE BOX LIDS TO BE RE-RINGED 2



5TH STREET BLOCK



SITE PLAN
AND
QTY'S

PAGE:3 OF 7

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV

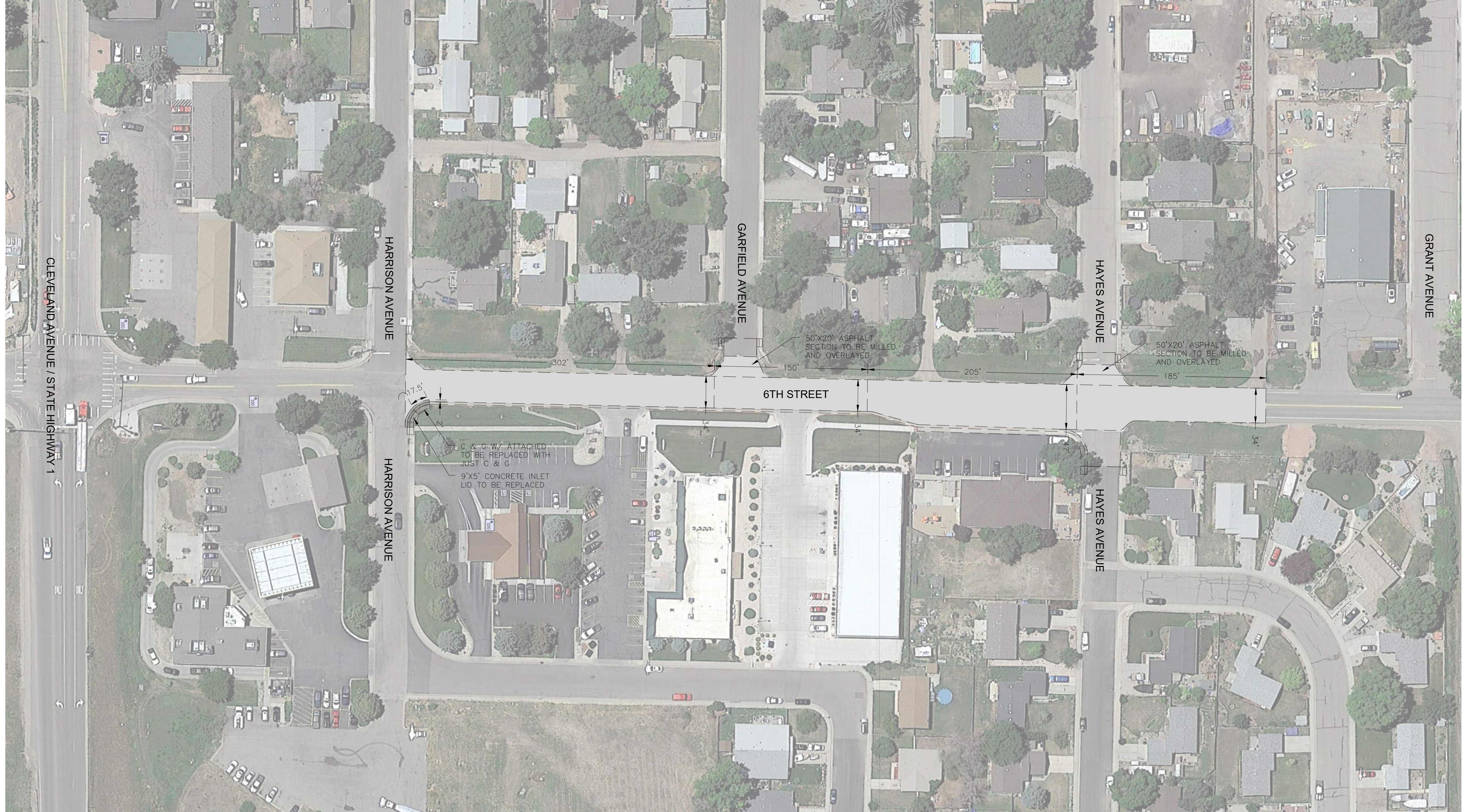
OLD TOWN STREET REPAIRS
4TH STREET AND GRANT BLOCK PLAN
AND
5TH STREET BLOCK PLAN

DRAWN BY:
CHECKED BY:
DATE:

V. GENTRY
B. GOWING
06-16-2020

REV. 1
REV. 2
REV. 3
REV. 4

MANHOLES TO BE RE-RINGED	1
VALVE BOX LIDS TO BE RE-RINGED	5



6TH STREET BLOCK

REV. 1	V. GENTRY	DRAWN BY:
REV. 2	B. GOWING	CHECKED BY:
REV. 3	06-16-2020	DATE:
REV. 4		

OLD TOWN STREET REPAIRS		
6TH STREET BLOCK PLAN		

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV



SITE PLAN
AND
QTY'S



ADAMS COURT INTERSECTION



3RD STREET AND HARRISON INTERSECTION

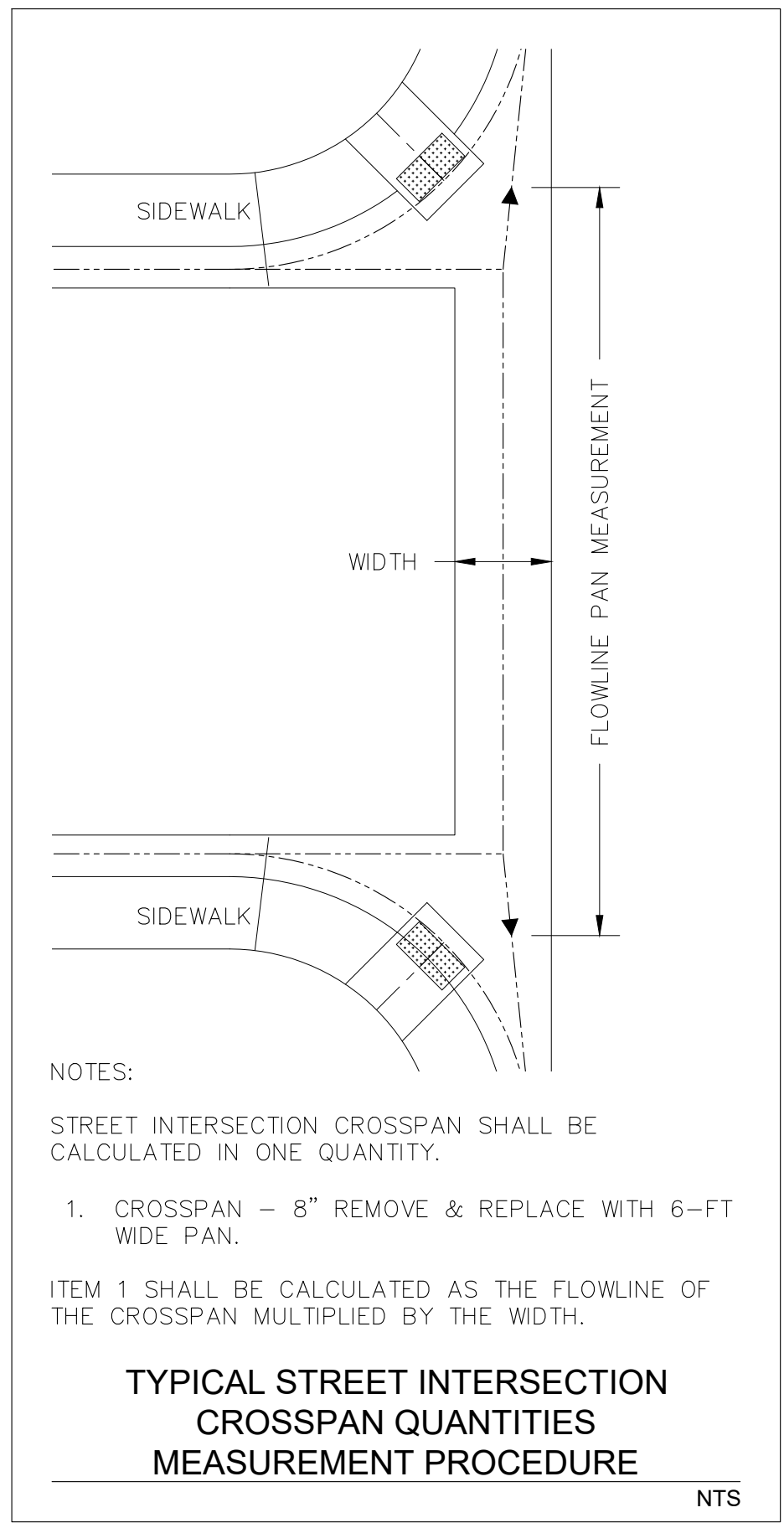
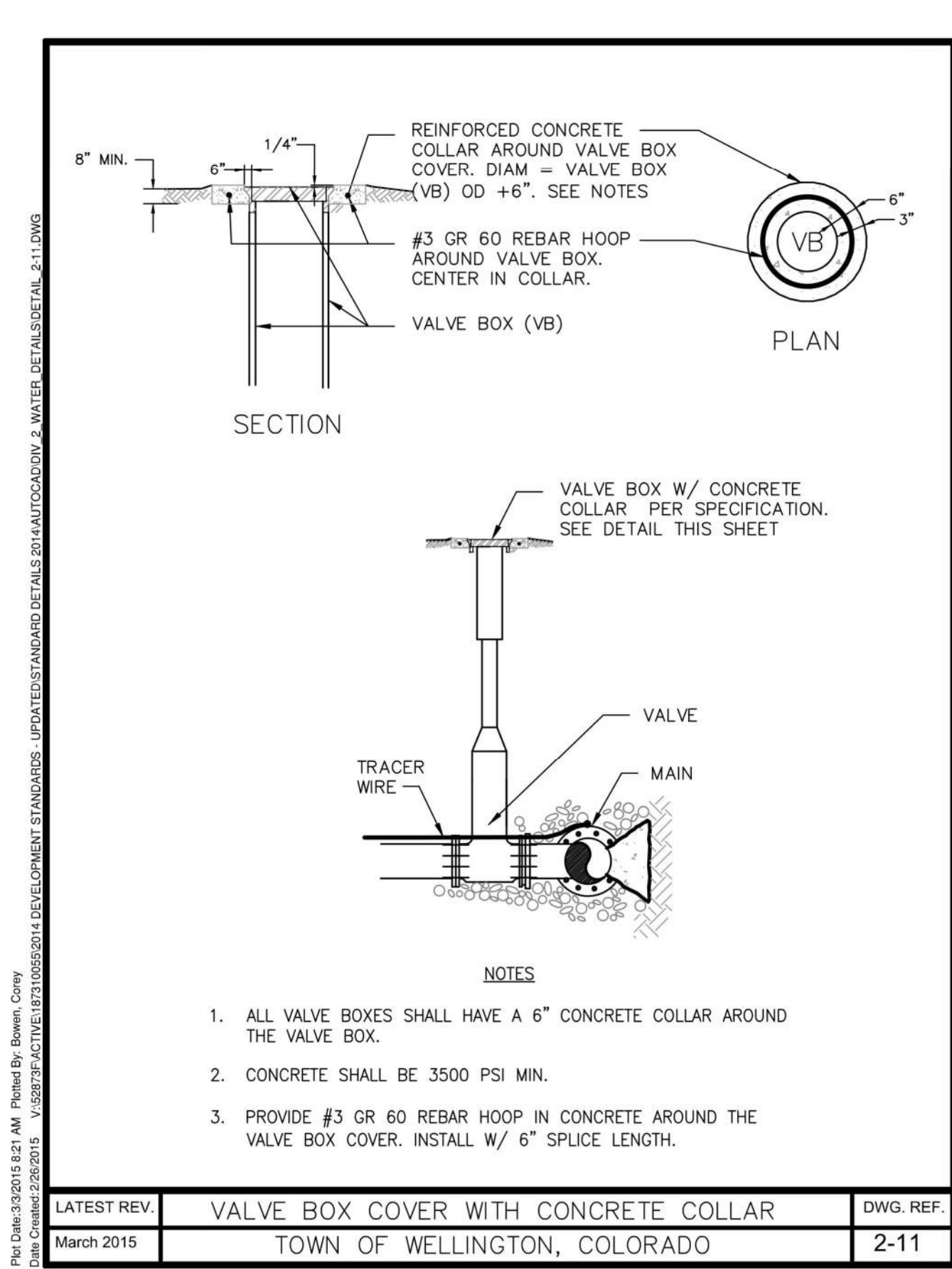
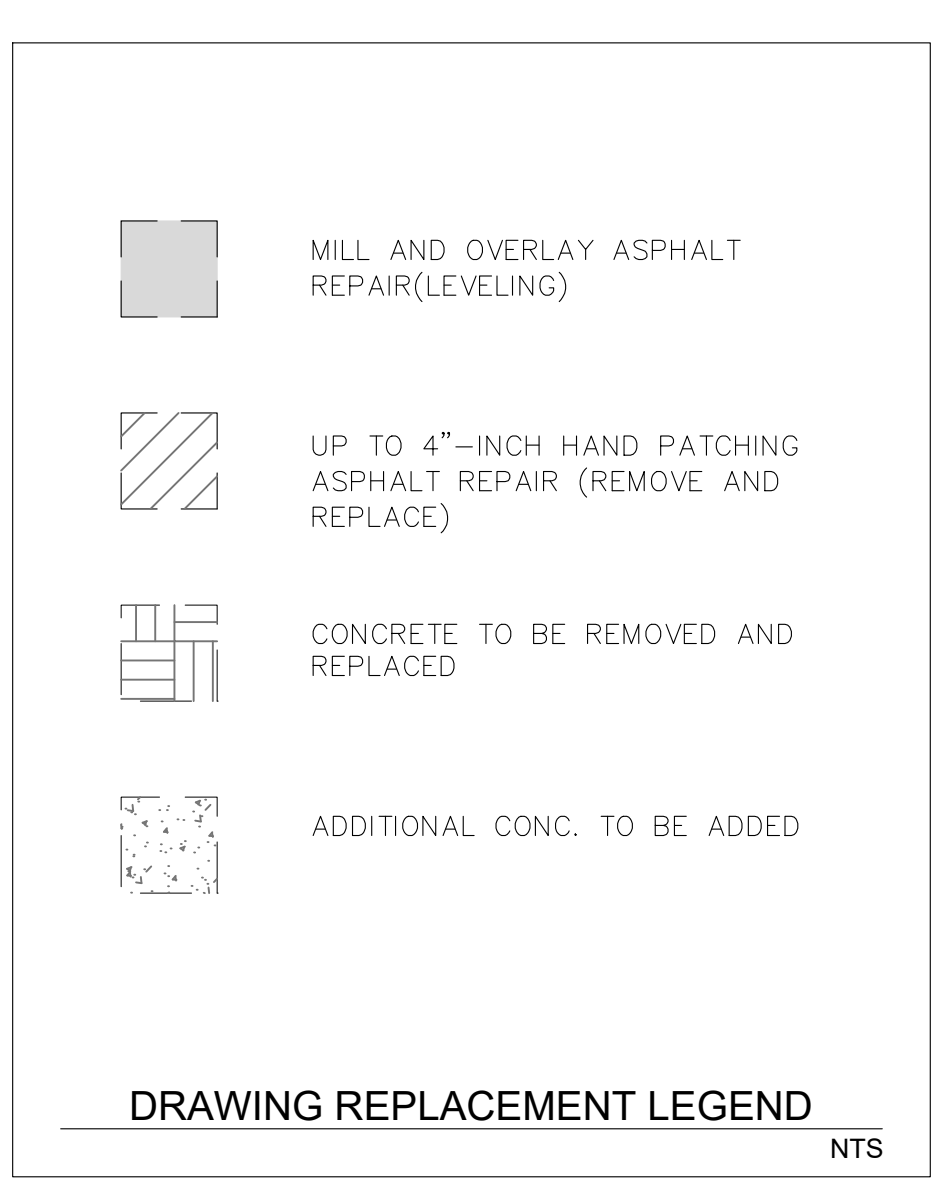
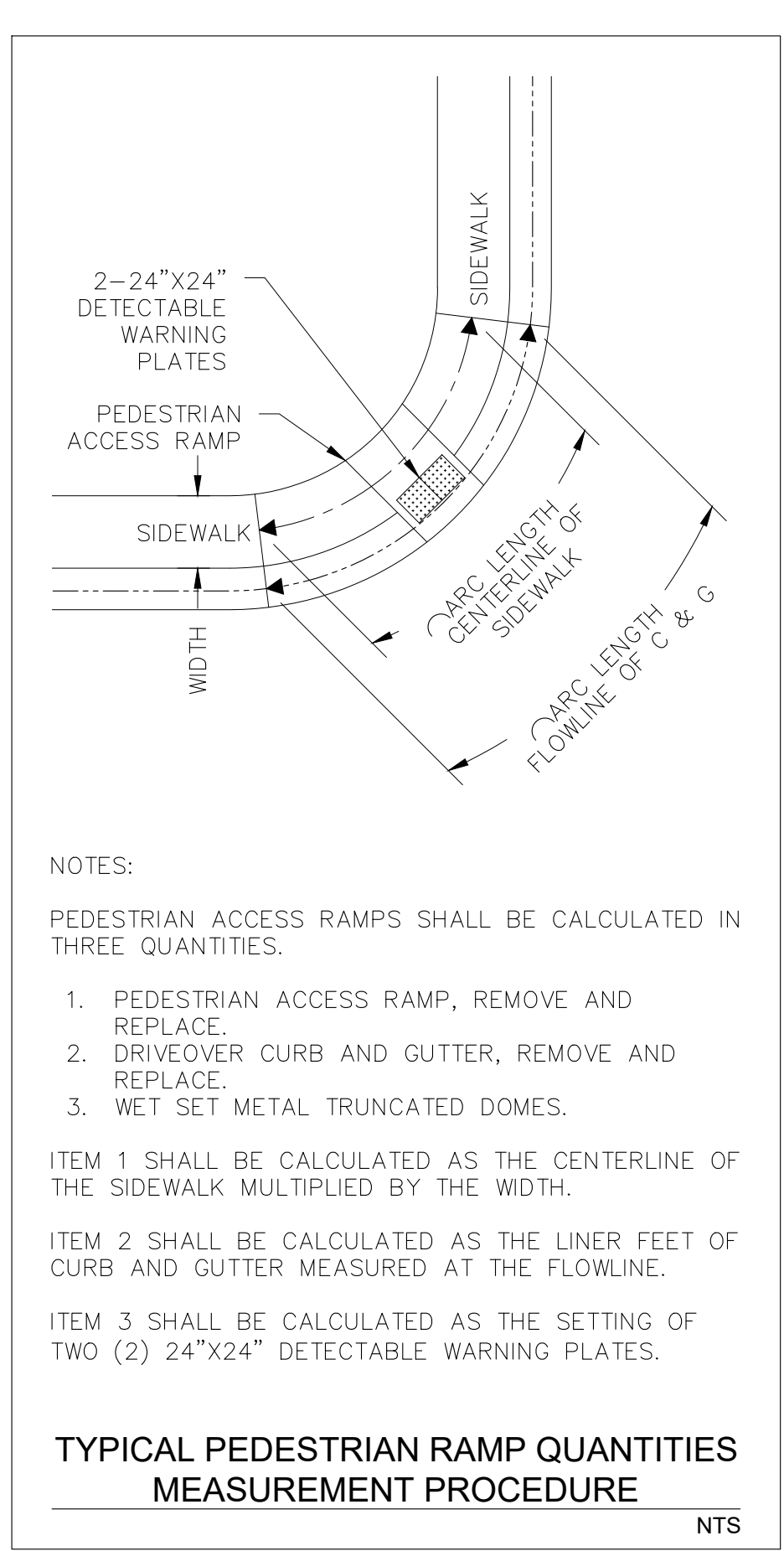
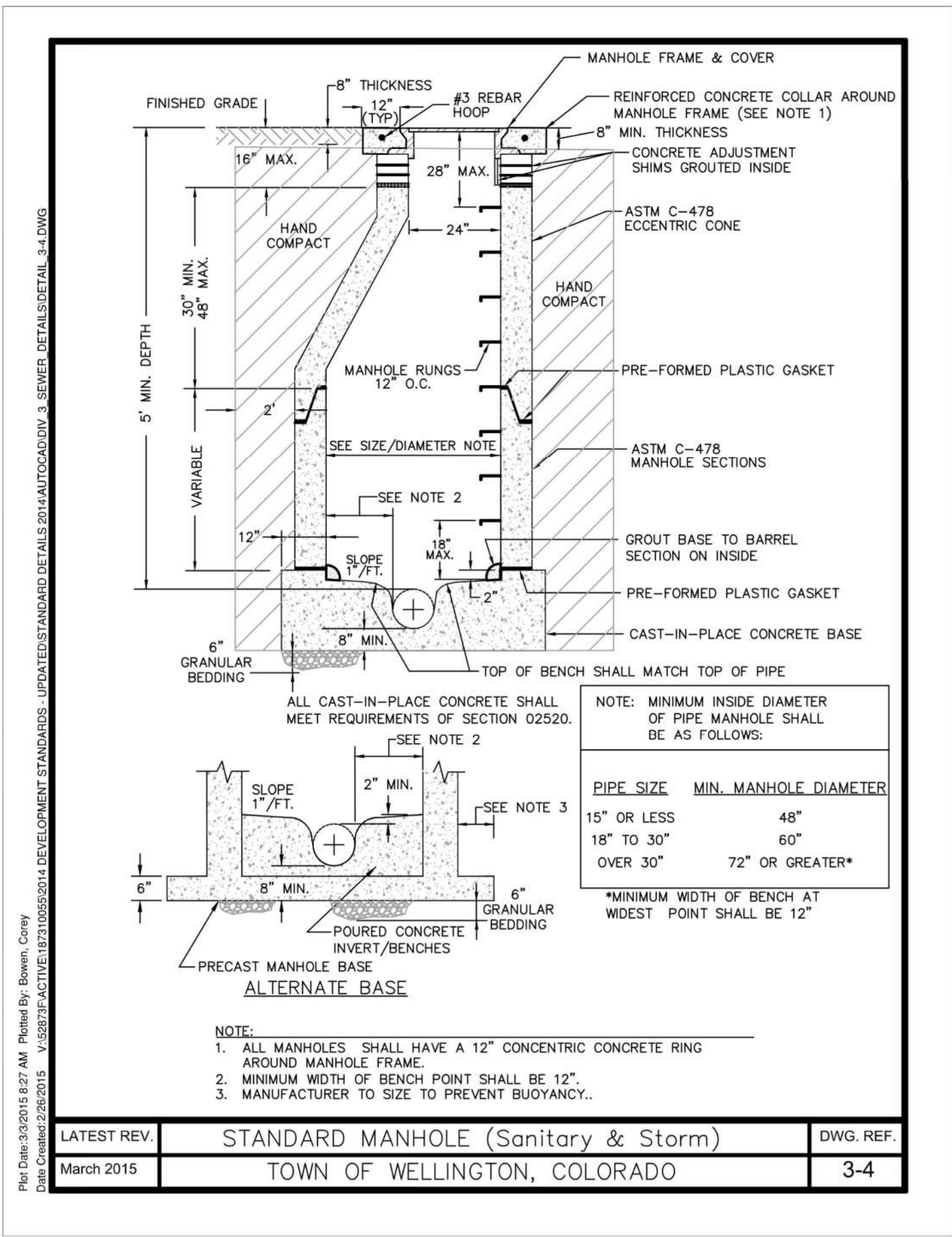
DRAWN BY:	V. GENTRY	REV. 1
CHECKED BY:	B. GOWING	REV. 2
DATE :	08-15-2020	REV. 3
		REV. 4

OLD TOWN STREET REPAIRS
ADAMS COURT/KIT FOX DRIVE
AND 3RD STREET/HARRISON AVENUE
INTERSECTION PLANS

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
WWW.WELLINGTONCOLORADO.GOV



SITE PLAN
AND
QTY'S



SECTION 00300

BID FORM

TO: Town of Wellington, Colorado

PROJECT: 2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT

Date:

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Contract Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. The undersigned bidder does hereby declare and stipulate that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to all the terms and conditions of the Invitation to Bid and Instructions to Bidders, the Agreement, the detailed Specifications, and the Plans pertaining to the work to be done, all of which have been examined by the undersigned.
3. Accompanying this bid is a certified or cashier's check or standard bid bond in the sum of 5% of Total Bid (\$) _____) in accordance with the Invitation to Bid and Instructions to Bidders.
4. The undersigned bidder agrees to execute the contract and a Performance Bond and a Payment Bond for the amount of the total of this bid within fifteen (15) calendar days from the date when the written notice of the award of the contract is delivered to him at the address given on this bid. The name and address of the corporate surety with which the bidder proposes to furnish the specified bonds is as follows:
Travelers Casualty and Surety of America, One Tower Square, Hartford, CT 06183
5. All the various phases of work enumerated in the Contract Documents with their individual jobs and overhead, whether specifically mentioned included by implication or appurtenant thereto, are to be performed by the CONTRACTOR under one of the items listed in the Bid, irrespective of whether it is named in said list.
6. Payment for work performed will be in accordance with the Bid subject to changes as provided in the Contract Documents.
7. The undersigned bidder hereby acknowledges Addenda No. 1 through 3. *WSA*
8. Bidder agrees that the Work shall be substantially completed and shall be completed and ready for Final Payment in accordance with the Conditions of the Contract on or before the dates or within the number of calendar days indicated in the Agreement.

Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

12. PRICES

The foregoing prices shall include all labor, materials, transportation, shoring, removal, dewatering, overhead, profit, insurance, etc., to cover the complete work in place of the several kinds called for in the Contract Documents.

Respectfully submitted,

CONTRACTOR

By William S Anderson

Title Vice President

William S. Anderson 6/19/20
Signature Date

ADDRESS 7785 Highland Meadows Pkwy,
Suite 100
Fort Collins, CO 80528

Telephone 970-223-3151

Attest

Title Jennifer Lindblad, Assistant Secretary

Jennifer Lindblad 6/19/20
Signature Date

Address 7785 Highland Meadows Pkwy,
Suite 100
Fort Collins, CO 80528

970-223-3151



(Seal - if bid is by a corporation)

END OF BID FORM

2020 Wellington Old Town Street Repairs - Asphalt																
Date				Base Bid								Additional Alternate Bid				
Item No.	Description	Units	Unit Cost	Ruffian and Mammoth	Viewpoint and Adams	3rd St	4th St and Cleveland	4th St and Grant	5th and Grant	6th and Grant	Contract Quantities	Base Bid Total	Harrison and 3rd	Kit Fox and Adams	Additional Contract Quantities	Additional Alternate Bid Total
	Number of Blocks			1	1	1	1	2	2	3	11		1	1	2	
1	Mobilization	LS	\$ 5,300.00	9%	9%	9%	9%	18%	18%	27%	100%	\$ 5,300	9%	9%	18%	
2	Planing and Surface Preparation: Depth <2" - Min Drum Width 70"	SY	\$ 2.50	30	140	1250	960	2200	1150	3700	9430	\$ 23,575	50	50	100	\$ 250
3	Taper Planing Adjacent to Gutter	LF	\$ 3.00	20	60	570	540	1240	610	660	3700	\$ 11,100	0	0	0	\$ -
4	Taper Planing Adjacent Edge of asphalt	LF	\$ 4.00	0	0	0	0	0	0	1030	1030	\$ 4,120	0	0	0	\$ -
5	Set Valve Box- W/ Concrete Collar, TOW Detail 2-11	EA	\$ 345.00	0	0	0	0	2	2	5	9	\$ 3,105	0	0	0	\$ -
6	Set Manhole Ring W/ Concrete Collar, TOW Detail 3-4	EA	\$ 440.00	0	0	0	0	2	1	0	3	\$ 1,320	0	0	0	\$ -
7	HMA - Grading S, (75) 64-22 Binder	TON	\$ 112.00	1	11	130	97	226	119	407	849	\$ 95,088	1	1	2	\$ 224
8	HMA - Grading S 75 Hand Patching - Remove & Replace	TON	\$ 250.00	3	5	8	9	16	7	1	49	\$ 12,250	5	5	10	\$ 2,500
9	HMA Paver Patching - Remove & Replace	TON	\$ -	0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -
10	HMA Grading SX, (75) 64-22 Leveling	TON	\$ 132.00	2	8	69	105	121	63	204	572	\$ 75,504	3	3	6	\$ 792
11	Traffic Control	LS	\$ 21,000.00	9%	9%	9%	9%	18%	18%	27%	100%	\$ 21,000	9%	9%	18%	\$ 2,000
Base Bid Amount												\$ 252,362	Additional Alternate Bid Amount			\$ 5,766
Total Bid Amount															\$ 258,128	

THIS PAGE INTENTIONALLY LEFT BLANK.

SECTION 00410

BID BOND

KNOW ALL MEN BY THESE PRESENTS, Connell Resources, Inc.
as Principal, and Travelers Casualty and Surety Company of America as Surety, are hereby held
and firmly bound unto the Town of Wellington, as OWNER, in the sum of Five Percent (5%) of Total
Amount Bid Dollars (\$ 5%) for the payment of which, well and
truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

THE CONDITION of this obligation is such that whereas the Principal has submitted to the Town of Wellington
the accompanying Bid and hereby made a part hereof to enter into a
Construction Agreement for the construction of 2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted the and the Principal shall execute and deliver a Contract in the form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said Contract, and for payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void; otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals this 19th day of June, 2020, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

PRINCIPAL: Connell Resources, Inc.

By: William S. Anderson
Title: William S. Anderson, Vice President

Address: 7785 Highland Meadows Parkway, Suite 100
Fort Collins, CO 80528

ATTEST:

By: Jennifer Lindblad
Title: Jennifer Lindblad, Assistant Secretary

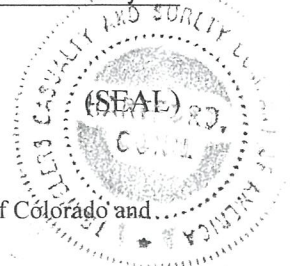
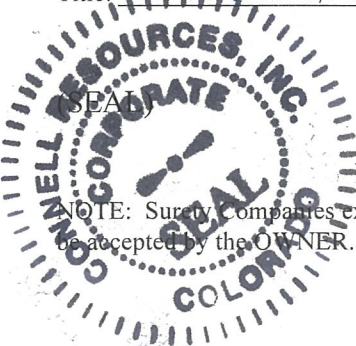
SURETY: Travelers Casualty and Surety Company of America

By: Christina L. Townsend
Title: Christina L. Townsend, Attorney-in-Fact

Address: One Tower Square
Hartford, CT 06183

WITNESS TO SURETY:

By: Ruth Anne Lindsay
Title: Ruth Anne Lindsay, Witness to Surety



NOTE: Surety Companies executing bonds must be authorized to transact business in the State of Colorado and be accepted by the OWNER.

END OF BID BOND



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company
Farmington Casualty Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, St. Paul Fire and Marine Insurance Company, and Farmington Casualty Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Donna L. Adams, Ashley K. Anderson, Barbara J. Arnold, Timothy J. Blanchard, Lynn Christine Bosman, Mary Ann Eurich, Vickie Golobic, Ruth Anne Lindsay, Nikki M. Mosbrucker, Terri L. Reese, Jessica Jean Rini, Robert Charles Torrez, Christina L. Townsend, and Jennifer J. Walker** of Denver, Colorado, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law, including the following bond:

Surety Bond No.: 2020 Town of Wellington Roads Asphalt Repair
OR
Project Description: Project
Principal: Connell Resources, Inc.
Obligee: Town of Wellington

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **6th** day of **May**, 2019.



State of Connecticut
 City of Hartford ss.

By: *Robert L. Raney*
 Robert L. Raney, Senior Vice President

On this the **6th** day of **May**, 2019, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2021



Anna P. Nowik
 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **19th** day of **June**, 2020



Kevin E. Hughes
 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
 Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.

SECTION 00420

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information they desire.

1. Name of Bidder: Connell Resources, Inc.
2. Permanent main office address: 7785 Highland Meadows Pkwy. Suite 100
Fort Collins, CO 80528
3. When organized: 1946
4. If a corporation, where incorporated: Colorado
5. How many years have you been engaged in the contracting business under your present firm or trade name? 38 Years
6. Contracts on hand: (Schedule these, showing amount of each contract and the anticipated dates of completion.) List the location and type of construction, name of your superintendent on the project, Owner and Engineer for each project with contact persons for each the Owner and the Engineer with their telephone numbers where each may be contacted.

See Attached Work In Progress

7. General character/type of work performed by your company:
Civil Site Work, Erosion Control, Earthwork, Grading, Storm Drain, Waterline,

Sanitary Sewer, Storm Sewer, Minor Storm Structures, Aggregate Base,

Asphalt Paving

12. Experience in construction work similar in scope to this project. For projects completed in the last five years list the same information as is requested for item 10 above.

See Attached Project Profiles

13. Background and experience of the principal members of your organization, including officers.

See Attached Resumes

14. Credit available. \$ 4 Million

15. Bank reference. List the Bank name, Contact person, and telephone number:

Bank of Colorado Christopher Burns - 970-267-3663

16. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? Upon award and further discussion

17. Are you licensed as an excavator, pipeline constructor or any other title? If yes, in what city, county, or state?

As Necessary

What class, license and numbers?

18. What percent of total contract price do you anticipate subcontracting work under this contract? 80%

list type of work subcontracted Traffic Control

19. Are you involved in any lawsuits or are any lawsuits pending at the present time? No

If yes, give the details

20. What are the limits of your public liability? See Attached Sample Certificate
21. What are your company's bonding limitations? \$30 Million Per Project, No Aggregate
22. Name of proposed Superintendent for this project. Said person shall be required in the project unless agreed upon otherwise in writing by Owner.
- Richard Van Dyke

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recital comprising this Statement of Bidder's Qualifications. The undersigned further agrees that they will not bring suit in a court of law for any information that is furnished to Owner in good faith by said parties or persons responding to Owner's requests for information concerning Bidder's qualifications.

Dated this 19th day of June, 20 20.

Connell Resources, Inc.
Name of Bidder

By: William S. Anderson

Title: William S Anderson, Vice President

State of Colorado

County of Larimer

William S Anderson being duly sworn deposes and says

that he or she is Vice President

of Connell Resources, Inc.
(Name of organization)

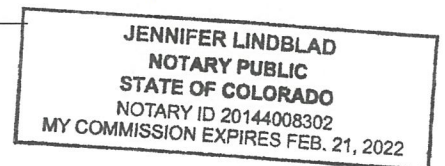
and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this 19th day of June, 20 20.

Jennifer Lindblad
Notary Public

My commission expires February 21 2022

END OF SECTION



SCHEDULE OF MAJOR 2020 COMPLETED WORK & WORK-IN-PROGRESS

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>	<i>CONTRACT TO COMPLETE</i>
WATERLINE, GRADING	\$541,922	2201001	0%	GREELEY NEWT INTERCONNECT FORT COLLINS	CITY OF GREELEY CADEE OAKLEAF	\$ 541,922
SEWER, STORM, GRADING BASE, REMOVALS, PAVING	\$1,173,294	2201002	0%	SEVERANCE COMMUNITY PARK SEVERANCE	ECI SITE CONSTRUCTION MGMT LEE ROGERS	\$ 1,173,294
REMOVALS	\$50,905	2201003	0%	LINDEN STREET LIGHTING FORT COLLINS	CITY OF FORT COLLINS NICOLE HAHN	\$ 50,905
REMOVALS, GRADING, BASE	\$120,000	2201004	0%	NCMC ER RAMP REPLACEMENT GREELEY	BANNER HEALTH DAVID FRY	\$ 120,000
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$7,553,950	2201005	0%	RENDEZVOUS FILING NO. 2 FORT COLLINS	HARTFORD HOMES PATRICK McMEEKIN	\$ 7,553,950
REMOVALS, GRADING, PAVING	\$621,989	2201006	0%	SFCSD - PH 1 EXPANSION FORT COLLINS	HYDRO CONSTRUCTION STAN JAVERNICK	\$ 621,989
GRADING, REMOVALS, PAVING	\$391,952	2201007	0%	REMINGTON STREET STORM FORT COLLINS	GARNEY COMPANIES JOE GRAHAM	\$ 391,952
GRADING, UTILITIES, BASE PAVING, REMOVALS	\$400,000	2201009	0%	JOHNSTOWN PLAZA LOT A PH 3 JOHNSTOWN	CARSON DEVELOPMENT MIKE SCHLUP	\$ 400,000
						\$ 10,854,012

SCHEDULE OF MAJOR 2019 COMPLETED WORK & WORK-IN-PROGRESS

TYPE OF WORK	CONTRACT AMOUNT	JOB #	PERCENT COMPLETE	JOB NAME LOCATION	OWNER CONTACT	CONTRACT TO COMPLETE
STORM, REMOVALS, GRADING BASE, PAVING	\$384,905	2191001	100%	JBS PARKING LOT EXPANSION GREELEY	JBS USA RANDALL ROGOS	\$ -
SEWER, REMOVALS, GRADING	\$116,933	2191002	100%	LONG POND OUTLET REHAB FORT COLLINS	WATER SUPPLY & STORAGE DENNIS HARMON	\$ -
WATERLINE	\$56,277	2191003	100%	GREELEY VAULT BELLVIEW LINE #10 GREELEY	CITY OF GREELEY LAURA PRECHEL	\$ -
REMOVALS, GRADING BASE, PAVING	\$272,279	2191004	100%	NORDY'S PARKING LOT FORT COLLINS	NORDY'S BBQ ERIC NORDHAGEN	\$ -
WATERLINE	\$231,955	2191005	100%	17TH ST & 30TH AVE CT WATERLINE GREELEY	CITY OF GREELEY LAURA PRECHEL	\$ -
REMOVALS, PAVING	\$50,428	2191006	100%	OASIS @ WATER VALLEY PH 1 WINDSOR	OASIS @ WATER VALLEY MELISSA BARTON	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$660,192	2191007	100%	JOHNSTOWN PLAZA PARCEL A PH 2 JOHNSTOWN	CARSON DEVELOPMENT MIKE SCHLUP	\$ -
GRADING, BASE, PAVING	\$86,332	2191009	100%	BEAR PAW CENTERPLACE GREELEY	ROCHE CONSTRUCTORS THOMAS ROCHE	\$ -
WATERLINE, REMOVALS PAVING	\$233,089	2191010	100%	VINE & I-25 WATERLINE RELOCATION FORT COLLINS	ELCO WATER DISTRICT RANDY SIDDENS	\$ -
REMOVALS, PAVING	\$68,815	2191012	100%	BROOKHAVEN HOA FORT COLLINS	BROOKHAVEN HOA SCOTT MACFARLAND	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$609,936	2191013	100%	SHARP POINT & NANCY GRACE CONNECTION FORT COLLINS	CITY OF FORT COLLINS CALEB FEAVER	\$ -
STORM, WATERLINE, PAVING REMOVALS, GRADING, BASE	\$2,055,411	2191014	47%	CSU LAGOON FORT COLLINS	COLORADO STATE UNIVERSITY TONY FLORES	\$ 1,089,368
WATERLINE, REMOVALS GRADING, PAVING	\$1,478,277	2191015	89%	MOSIER WATERLINE REHAB PH 2 GREELEY	CITY OF GREELEY LAURA PRECHEL	\$ 162,610
REMOVALS, GRADING	\$265,422	2191016	100%	CSU FOOTBALL STADIUM FORT COLLINS	NEMAHA SPORTS CONSTRUCTION JEFF EMANUEL	\$ -
REMOVALS, GRADING, PAVING SANITARY, WATERLINE	\$1,532,600	2191017	94%	INTERSTATE LAND HOLDINGS FORT COLLINS	INTERSTATE LAND HOLDINGS CURT BURGNER	\$ 91,956
REMOVALS, BASE, PAVING	\$1,259,940	2191018	100%	CSU PARKING & TRANSPORTATION FORT COLLINS	COLORADO STATE UNIVERSITY TONY FLORES	\$ -
WATERLINE	\$50,847	2191019	100%	EPIC 8" WATERLINE BORE FORT COLLINS	CITY OF FORT COLLINS ANDREW GINGERICH	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$918,756	2191020	100%	LAKE STREET PARKING LOT FORT COLLINS	COLORADO STATE UNIVERSITY TONY FLORES	\$ -
GRADING, PAVING	\$71,688	2191021	100%	FLOOD & PETERSON FORT COLLINS	FLOOD & PETERSON LORI MCCLESKEY	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$212,932	2191022	100%	SW PROSPECT & I-25 FORT COLLINS	CSU RESEARCH FOUNDATION BO BROWN	\$ -
EXCAVATION	\$92,591	2191023	100%	GREELEY SEWER CROSSING GREELEY	CITY OF GREELEY LAURA PRECHEL	\$ -
STORM, WATERLINE, GRADING REMOVALS, BASE, PAVING	\$263,920	2191024	100%	1ST STOP FORT COLLINS	R & L VENTURES RYAN FLACK	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$1,537,694	2191025	100%	SUNIGA ROAD IMPROVEMENTS FORT COLLINS	CITY OF FORT COLLINS TRACY DYER	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$2,270,656	2191026	86%	WILLOW STREET IMPROVEMENTS FORT COLLINS	CITY OF FORT COLLINS NICOLE HAHN	\$ 317,892
UTILITIES, REMOVALS	\$1,235,386	2191027	100%	7TH AVENUE IMPROVEMENTS GREELEY	J-2 CONTRACTING CHRIS LEONE	\$ -
BASE, PAVING	\$148,094	2191028	100%	UCH MCR PARKING LOT LOVELAND	HILLSIDE CONSTRUCTION SEAN ROGERS	\$ -
REMOVALS, PAVING	\$109,239	2191029	100%	CONFLUENCE FORT COLLINS	SAUNDERS HEATH ADAM SASS	\$ -

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>	<i>CONTRACT TO COMPLETE</i>
GRADING	\$361,267	2191030	100%	MIKE SCHLUP RESIDENCE ESTES PARK	CARSON DEVELOPMENT MIKE SCHLUP	\$ -
STORM, REMOVALS, BASE GRADING, PAVING	\$179,653	2191032	100%	RENDEZVOUS ACCESS ROAD TIMNATH	TOWN OF TIMNATH ERIC FURHMANN	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,437,500	2191033	97%	HARMONY GARDENS SITE PLAN FORT COLLINS	SERFER LAND VENTURES CHRIS SERBOUSEK	\$ 43,125
GRADING, BASE	\$157,591	2191034	100%	TIMNATH FEED & GRAIN TIMNATH	TOWN OF TIMNATH MATT BLAKELY	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$826,613	2191035	100%	TIMNATH MAIN STREET TIMNATH	TOWN OF TIMNATH ERIC FURHMANN	\$ -
UTILITIES, REMOVALS GRADING, PAVING	\$353,800	2191036	100%	SHERWOOD WATERLINE FORT COLLIN	CITY OF FORT COLLINS HEATHER MCDOWELL	\$ -
STORM, REMOVALS, BASE GRADING, PAVING	\$1,347,217	2191037	36%	SOLDIER CANYON FILTER PLANT EXP FORT COLLINS	GARNEY CONSTRUCTION MATT MEYER	\$ 862,219
REMOVALS, GRADING, BASE, PAVING	\$1,896,057	2191039	98%	LAKEVIEW ON THE RISE OFFSITE FORT COLLINS	PEDCOR CONSTRUCTION MGMT MATT BOYLE	\$ 37,921
GRADING, PAVING	\$148,508	2191041	100%	AGFINITY PAVING EATON	AGFINITY DAN RIDDLE	\$ -
WATERLINE, REMOVALS PAVING	\$206,030	2191042	100%	20TH STREET WATERLINE GREELEY	CITY OF GREELEY LAURA PRECHEL	\$ -
GRADING	\$594,331	2191043	100%	AGFINITY 2019 EATON	AGFINITY DAN RIDDLE	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,942,309	2191045	5%	JOHNSTOWN PLAZA APARTMENTS JOHNSTOWN	CARSON DEVELOPMENT MIKE SCHLUP	\$ 1,845,194
WATERLINE	\$100,593	2191046	100%	PROSPECT & SHEELEY FORT COLLINS	CITY OF FORT COLLINS ANDREW GINGERICH	\$ -
GRADING, PAVING	\$190,853	2191047	100%	FRONTIER 2019 ASPHALT PATCHING CHEYENNE	FRONTIER REFINING TIM GORDON	\$ -
UTILITIES, REMOVALS GRADING, PAVING	\$2,209,835	2191048	100%	CENTERRA INDUSTRIAL LOT 3 LOVELAND	RC ANDERSON JIM MODAFFERI	\$ -
PAVING	\$155,955	2191049	100%	LOVELAND LIBRARY LOVELAND	CITY OF LOVELAND LEE VAN ALSTYNE	\$ -
GRADING, PAVING	\$350,000	2191051	100%	GREATHOUSE STORAGE JOHNSTOWN	GREATHOUSE STORAGE, LLC SHAWN GREATHOUSE	\$ -
	\$500,000	2191053	95%	LCAC 2019-2020	LARIMER COUNTY	\$ 25,000
REMOVALS, GRADING, BASE PAVING	\$1,224,155	2191054	100%	FOOTHILLS CAMPUS PARKING LOT FORT COLLINS	COLORADO STATE UNIVERSITY TONY FLORES	\$ -
REMOVALS, GRADING, BASE PAVING	\$101,716	2191055	100%	DOLLAR GENERAL SEVERANCE	ALTECH, INC. DUB COOPER	\$ -
SEWER, WATERLINE, BASE REMOVALS, PAVING	\$321,110	2191056	100%	CSU SOUTH CAMPUS EARLY UTILITIES FORT COLLINS	COLORADO STATE UNIVERSITY TRACEY ABEL	\$ -
REMOVALS, GRADING, BASE PAVING	\$158,621	2191057	100%	VILLAGE @ 4 SEASONS FORT COLLINS	FAITH PROPERTY MANAGEMENT VANESSA JACKS	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$3,391,728	2191058	20%	NOCO LAW ENFORCEMENT TRAINING LOVELAND	BRYAN CONSTRUCTION BRIAN CASS	\$ 2,713,382
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$2,651,800	2191059	38%	SOUTH CAMPUS INFRASTRUCTURE FORT COLLINS	COLORADO STATE UNIVERSITY TRACEY ABEL	\$ 1,644,116
REMOVALS, GRADING, BASE PAVING	\$79,716	2191060	100%	BEEBE PARKING LOT REDESIGN FORT COLLINS	ROCHE CONSTRUCTORS AARON EVANS	\$ -
STORM, REMOVALS, PAVING GRADING	\$367,390	2191061	97%	MAIL CREEK STREAM REHAB PH 1 FORT COLLINS	CITY OF FORT COLLINS JASON STUTZMAN	\$ 11,022
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$931,775	2191062	1%	MEYERS GRP 5TH SUB INFRASTRUCTURE LOVELAND	CENTERRA METRO DISTRICT #1 CASEY MULLIGAN	\$ 922,457
SEWER, REMOVALS, BASE GRADING	\$949,818	2191063	52%	ASHCROFT DRAW PH 2B GREELEY	CITY OF GREELEY JUSTIN SCHOLZ	\$ 455,913
STORM, GRADING, BASE	\$118,280	2191064	88%	FUTURE LEGENDS	FUTURE LEGENDS, LLC	\$ 14,194

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>	<i>CONTRACT TO COMPLETE</i>
				WINDSOR	MIRANDA CHRISTIANSEN	
DESIGN	\$120,000	2191065	5%	SOUTH LOVELAND OUTFALL LOVELAND	CITY OF LOVELAND ERIC LESSARD	\$ 114,000
GRADING	\$65,325	2191066	72%	CURTIS LAKE CHECK STRUCTURE FORT COLLINS	WATER SUPPLY & STORAGE DENNIS HARMON	\$ 18,291
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$796,146	2191067	42%	TIMNATH COMMUNITY PARK TIMNATH	ECI SITE CONSTRUCTION MGMT ANNA HOEHN	\$ 461,765
WATERLINE, REMOVALS BASE, GRADING, PAVING	\$1,136,202	2191069	1%	CSU WATERLINE REPLACEMENT FORT COLLINS	COLORADO STATE UNIVERSITY JEN MARLEY	\$ 1,124,840
UTILITIES, REMOVALS GRADING	\$4,161,316	2191070	8%	WELLINGTON MIDDLE/HIGH SCHOOL WELLINGTON	ADOLFSON & PETERSON SCARLETT OLSON	\$ 3,828,411
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$2,422,000	2191071	1%	HUGHES WAY WIDENING IMPROVEMENT FORT COLLINS	COLORADO STATE UNIVERSITY TONY FLORES	\$ 2,397,780
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$6,058,395	2191072	1%	7 MG WATER STORAGE TANK BERTHOUD	CARTER LAKE FILTER PLANT JOSH COOK	\$ 5,997,811
GRADING, BASE	\$128,253	2191073	0%	INTERSAND RAIL SPUR WINDSOR	OMNITRAX MATTHEW MATUSAK	\$ 128,253
WATERLINE, REMOVALS, BASE, PAVE	\$244,546	2191074	0%	CONFLICT MANHOLE WATERLINE RELOCATE GREELEY	CITY OF GREELEY PAUL TUCKER	\$ 244,546
DESIGN	\$76,400	2191075	0%	GREELEY CMAR 2020 DESIGN GREELEY	CITY OF GREELEY ADAM PRIOR	\$ 76,400
SEWER, REMOVALS, BASE GRADING, PAVING	\$327,376	2191076	0%	STOVER SEWERLINE REPLACEMENT FORT COLLINS	CITY OF FORT COLLINS FORT COLLINS	\$ 327,376
						\$ 24,955,841

SCHEDULE OF MAJOR 2018 COMPLETED WORK & WORK-IN-PROGRESS

TYPE OF WORK	CONTRACT AMOUNT	JOB #	PERCENT COMPLETE	JOB NAME LOCATION	OWNER CONTACT	CONTRACT TO COMPLETE
UTILITIES, GRADING, BASE. PAVING, REMOVALS	\$1,966,057	2181002	100%	SH 14 GREENFIELD COURT FORT COLLINS	LARIMER COUNTY RUSTY MCDANIEL	\$ -
REMOVALS, PAVING	\$118,730	2181003	100%	McLANE PATCHING LONGMONT	McLANE COMPANY TROY BELT	\$ -
STORM, REMOVALS, BASE GRADING, PAVING	\$5,962,612	2181004	100%	SH 14 RESURFACING FORT COLLINS	COLORADO DEPT OF TRANSPORTATION JAMES USHER	\$ -
STORM, REMOVALS, BASE GRADING, PAVING	\$412,343	2181006	100%	LEMAY CULVERT REPLACEMENT FORT COLLINS	CITY OF FORT COLLINS MARK LAKEN	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$3,765,107	2181008	100%	BOYD SANITARY SEWER PH 1 LOVELAND	CITY OF LOVELAND TANNER RANDALL	\$ -
SEWER, STORM, REMOVALS	\$656,844	2181009	100%	DRY CREEK BOX CULVERT FORT COLLINS	CITY OF FORT COLLINS LINSEY CHALFANT	\$ -
REMOVALS, GRADING, BASE PAVING	\$118,018	2181010	100%	ACE HARDWARE EATON EATON	POULSEN LLC JOHN HEPPNER	\$ -
WATERLINE, PAVING	\$78,446	2181011	100%	BUCKINGHAM/LEMAY WATERLINE FORT COLLINS	CITY OF FORT COLLINS JAY ROSE	\$ -
GRADING, BASE, PAVING	\$179,480	2181012	100%	FIRST CONGREGATIONAL CHURCH EATON	FRANSEN PITTMAN TYLER KAUL	\$ -
REMOVALS, GRADING, BASE PAVING	\$145,649	2181013	100%	REGISTRY RIDGE 2018 FORT COLLINS	SCOTT CONTRACTING MITCHELL JONES	\$ -
PAVING	\$140,747	2181014	100%	ROCKY MTN NATIONAL PARK PAVING ESTES PARK	BAIRCO CONSTRUCTION INC. CHARLIE COOLEY	\$ -
WATERLINE, GRADING, BASE PAVING	\$394,166	2181016	100%	20" BOYD LAKE WATERLINE LOVELAND	CITY OF LOVELAND LESLIE MOENING	\$ -
STORM, WATERLINE, BASE GRADING, REMOVALS, PAVING	\$307,003	2181017	100%	GILCREST ELEMENTARY SCHOOL GILCREST	FRANSEN PITTMAN JACOB KIENITZ	\$ -
SEWER, WATERLINE	\$1,127,623	2181018	100%	LIBRARY PARK UTILITIES FORT COLLINS	CITY OF FORT COLLINS LINSEY CHALFANT	\$ -
STORM, REMOVALS, BASE GRADING, PAVING	\$268,755	2181019	100%	FIRE TRAINING GROUND ACCESSES LOVELAND	CITY OF LOVELAND MIKE JACOBSON	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,735,125	2181021	100%	RIVERSIDE RES EMERGENCY SPILLWAY MASTERS	RIVERSIDE RES & LAND COMPANY	\$ -
GRADING, REMOVALS	\$356,200	2181022	100%	CSU HUGHES STADIUM DEMO FORT COLLINS	INDEPENDENCE EXCAVATING LEO SLANSKY	\$ -
REMOVALS, GRADING, PAVING	\$581,725	2181023	100%	THE HILL COMMUNITY ASSOC FORT COLLINS	ON-SITE PROPERTY SERVICES JERROD PAULT	\$ -
BASE, PAVING	\$244,705	2181024	100%	WILD WINGS II TIMNATH	BISON RIDGE CONSTRUCTION SEAN TISONE	\$ -
GRADING, PAVING	\$75,975	2181025	100%	MAVERICK GASE STATION FORT COLLINS	E.K BAILEY CONSTRUCTION DEAN JONES	\$ -
BASE, PAVING	\$183,591	2181026	100%	BRAND'S BEVERAGES WINDSOR	BBK II DAVID BYERLY	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$2,369,830	2181027	100%	TIMNATH TRAIL @ RIVERBEND TIMNATH	TIMNATH TRAIL, LLC BILL ALBRIGHT	\$ -
WATERLINE, REMOVALS, BASE PAVING	\$281,919	2181028	100%	ELCO NW FRONTAGE RD WATERLINE FORT COLLINS	ELCO WATER DISTRICT RANDY SIDDENS	\$ -
STORM, GRADING	\$612,906	2181029	100%	PHASE 3B - MODULE 3 CELL CONSTRUCTION AULT	WASTE MANAGEMENT OF CO TOMWCHWEITZER	\$ -
REMOVALS, GRADING, BASE PAVING	\$4,434,824	2181030	100%	LARIMER CO 2018 RESURFACING LARIMER COUNTY	LARIMER COUNTY SUZETTE MALLETTTE	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$3,910,363	2181031	86%	CROWNE @ OLD TOWN NORTH FORT COLLINS	CROWNE @ OLD TOWN NORTH LP CRAGON SIMS	\$ 547,451
STORM, GRADING, BASE	\$51,710	2181032	100%	TIMNATH RESERVOIR STORM DRAINAGE TIMNATH	TOWN OF TIMNATH BRIAN WILLIAMSON	\$ -

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>	<i>CONTRACT TO COMPLETE</i>
GRADING, PAVING	\$188,064	2181033	100%	CANNON RESIDENCE BERTHOUD	PAT CANNON	\$ -
GRADING, BASE, PAVING	\$409,356	2181034	100%	SHIELDS/ELIZABETH BIKEWAY FORT COLLINS	COLORADO STATE UNIVERSITY	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$518,215	2181035	100%	JOHNSTOWN PLAZA LOT D JOHNSTOWN	CARSON DEVELOPMENT MIKE SCHLUP	\$ -
STORM, REMOVALS, GRADING BASE, PAVING	\$760,603	2181036	100%	MULBERRY RIVERSIDE DRAINAGE FORT COLLINS	CITY OF FORT COLLINS JASON STUTZMAN	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$4,032,445	2181037	97%	BOYD SANITARY SEWER - PH 2 LOVELAND	CITY OF LOVELAND TANNER RANDALL	\$ 120,973
BASE, PAVING	\$92,571	2181038	100%	FUZZY'S TACOS WINDSOR	FUZZY'S TACOS STEVE SHIMA	\$ -
WATERLINE, REMOVALS, BASE GRADING, PAVING	\$3,090,763	2181039	92%	MORNING DRIVE WATERLINE LOVELAND	CITY OF LOVELAND TANNER RANDALL	\$ 247,261
REMOVALS, GRADING	\$103,319	2181041	100%	SOUTHWEST INDUSTRIAL PARK CHEYENNE, WY	CH YARBER CRANE SERVICES BLAKE WILSON	\$ -
REMOVALS, GRADING, BASE PAVING	\$132,590	2181042	100%	TIMNATH ADMIN BLDG TIMNATH	BRINKMAN CONSTRUCTION STEVE REWERTS	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,668,894	2181044	85%	PRPA HEADQUARTERS FORT COLLINS	FCI CONSTRUCTORS DAVID KELLY	\$ 250,334
STORM, REMOVALS, GRADING BASE, PAVING	\$230,371	2181045	100%	CAMPUS ROAD MAINTENANCE & REPAIRS FORT COLLINS	COLORADO STATE UNIVERSITY JENNIFER MARLEY / LAURA BENTLY	\$ -
REMOVALS, PAVING	\$78,453	2181046	100%	GRANDE MESA HOA LOVELAND	GRANDE MESA HOA JOHN HANSEN	\$ -
STORM, BASE, PAVING	\$997,773	2181047	100%	LCAC 2018-2019 LARIMER COUNTY	LARIMER COUNTY ERICH PURCELL	\$ -
STORM, WATERLINE, BASE REMOVALS, GRADING	\$855,769	2181048	83%	THE STANDARD - OFFSITE FORT COLLINS	KATERRA CONSTRUCTION CORY RICE	\$ 145,481
UTILITIES, GRADING,	\$3,500,906	2181049	71%	THE STANDARD - ONSITE FORT COLLINS	KATERRA CONSTRUCTION CORY RICE	\$ 1,015,263
REMOVALS, PAVING	\$111,122	2181050	100%	5874 LANGLEY AVENUE LOVELAND	DRN LLC ERIC ESTHOFF	\$ -
PAVING, REMOVALS	\$86,391	2181051	100%	500 NORTH LINK LANE FORT COLLINS	ALTEO LTD JAY ALTMAN	\$ -
GRADING	\$328,496	2181052	100%	JOHNSTOWN PLAZA LOT A JOHNSTOWN	CARSON DEVELOPMENT MIKE SCHLUP	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$305,090	2181053	100%	PEARL STREET IMPROVEMENTS FORT COLLINS	CITY OF FORT COLLINS ANDREW GINGERICH	\$ -
SANITARY, STORM, BASE	\$217,324	2181054	100%	SPRING CREEK STREAM REHAB PH 1 FORT COLLINS	CITY OF FORT COLLINS JASON STUTZMAN	\$ -
STORM, WATERLINE, BASE GRADING, PAVING	\$155,716	2181056	100%	TIMNATH TRAIL ROAD TIMNATH	TOWN OF TIMNATH BRIAN WILLIAMSON	\$ -
STORM, REMOVALS, BASE GRADING	\$68,102	2181057	100%	WINDSOR TIP TRACK TRANSLOAD WINDSOR	OMNITRAX SETH ANDERSON	\$ -
REMOVALS, GRADING, PAVING	\$296,063	2181058	100%	5221 YELLOWSTONE CHEYENNE	ZTI GROUP ED ZDENEK	\$ -
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$2,938,372	2181059	100%	CP 504 METRO DISTRICT LOVELAND	CENTERRA METRO DISTRICT NO. 1	\$ -
SEWER, CRUSHING, GRADING REMOVALS	\$824,865	2181060	100%	SHAMBHALA SEWER LINE RED FEATHER LAKES	SHAMBHALA MOUNTAIN CENTER DAN SOSALLA	\$ -
UTILITIES, GRADING, BASE PAVING	\$1,714,000	2181061	98%	RAILWAY FLATS PH 1 LOVELAND	BRYAN CONSTRUCTION KATHY BALDWIN	\$ 34,280
STORM, REMOVALS, GRADING BASE, PAVING	\$184,913	2181062	100%	HPE BUILDING 6 ENTRY FORT COLLINS	SUN CONSTRUCTION MATT SIGWARD	\$ -
REMOVALS, GRADING, BASE PAVING	\$173,066	2181064	100%	SCHRADER'S CONVENIENCE & FUELING FORT COLLINS	BEACON CONSTRUCTION DEVON SMITH	\$ -
GRADING, BASE, PAVING	\$211,982	2181065	100%	TIMNATH DEVELOPMENT BUILDINGS	NEENAN CONSTRUCTION	\$ -

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>	<i>CONTRACT TO COMPLETE</i>	
				TIMNATH	BRECKON BICE		
WATERLINE, REMOVALS GRADING, PAVING	\$246,404	2181066	100%	FRONTIER 2018 ASPHALT PATCHING CHEYENNE	FRONTIER REFINING DALE GALLEGOS	\$	-
UTILITIES, REMOVALS, GRADING	\$1,528,480	2181067	100%	POUDRE RIVER WHITEWATER PARK FORT COLLINS	ECI SITE CONSTRUCTION MGMT JERON SIEGERT	\$	-
GRADING, BASE	\$116,365	2181069	100%	CONCRETE EQUIPMENT STORAGE YARD WINDSOR	CONCRETE EQUIPMENT & SUPPLY BRENT GRENDREAU	\$	-
GRADING, REMOVALS	\$134,458	2181072	100%	SCHLUP RESIDENCE ACCESS ROAD GRADING ESTES PARK	CARSON DEVELOPMENT MIKE SCHLUP	\$	-
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$11,428,809	2181073	100%	RENDEZVOUS FILING NO. 1 FORT COLLINS	HARTFORD HOMES PATRICK McMEEKIN	\$	-
REMOVALS, GRADING	\$708,033	2181074	93%	LARAMIE RIVER EAST PORTAL TUNNEL BELLVIEW	WATER SUPPLY & STORAGE DENNIS HARMON	\$	49,562
SEWER, STORM, REMOVALS GRADING,	\$165,665	2181075	100%	WCR 76 CULVERT REPLACEMENT SEVERANCE	WOODS LAKE MUTUAL IRRIGATION CO SCOTT PARKER	\$	-
REMOVALS, GRADING	\$330,624	2181078	100%	CO SWEET GOLD 2018 DEMO & GRADING JOHNSTOWN	COLORADO SWEET GOLD DENNIS TREGO	\$	-
UTILITIES	\$282,786	2181079	100%	I-25 EXPRESS LANES / UTILITY RELOCATE WINDSOR	KRAEMER NORTH AMERICA / IHC AUSTIN KNAPP	\$	-
STORM, REMOVALS, GRADING BASE, PAVING	\$79,486	2181080	100%	LATHAM & PROSPECT INTERSECTION TIMNATH	TOWN OF TIMNATH ERIC FUHRMAN	\$	-
GRADING, SANITARY REMOVALS	\$418,055	2181081	100%	OXBOW LEVEE EXCAVATION FORT COLLINS	CITY OF FORT COLLINS JASON STUTZMAN	\$	-
STORM, REMOVALS, GRADING BASE	\$1,235,354	2181082	100%	SPRING CREEK STREAM REHAB PH 2 FORT COLLINS	CITY OF FORT COLLINS JASON STUTZMAN	\$	-
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$5,393,205	2181083	100%	HARMONY ROAD PHASE 4 TIMNATH	TOWN OF TIMNATH ERIC FUHRMAN	\$	-
SANITARY, STORM, CRUSHING REMOVALS, GRADING	\$1,307,855	2181084	100%	BIG THOMPSON RIVER IMPROVEMENTS LOVELAND	ECI SITE CONSTRUCTION MGMT JERON SIEGERT	\$	-
STORM, WATERLINE, GRADING UNDERDRAIN, BASE, PAVING	\$1,803,391	2181085	100%	RENDEZVOUS UNDERDRAIN TIMNATH	HARTFORD HOMES PATRICK McMEEKIN	\$	-
REMOVALS, GRADING PAVING	\$497,475	2181086	100%	JOHN ELWAY GREELEY GREELEY	JOHN ELWAY DEALERSHIP TODD MAUL	\$	-
WATERLINE, REMOVALS, GRADING	\$1,428,902	2181087	100%	NO WILSON AVE WATERLINE REPLACEMENT LOVELAND	CITY OF LOVELAND TANNER RANDALL	\$	-
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$4,505,148	2181088	78%	LAKEVIEW ON THE RISE FORT COLLINS	PEDCOR CONSTRUCTION MGMT MATT BOYLE	\$	991,133
WATERLINE, REMOVALS, GRADING	\$989,036	2181089	67%	MOSIER WATERLINE REHAB PH 1 GREELEY	CITY OF GREELEY ADAM PRIOR	\$	326,382
WATERLINE, BASE, GRADING PAVING, REMOVALS	\$1,725,000	2181090	78%	FCLWD WATERLINE / PRV CMAR FT COLLINS	FT COLLINS-LOVELAND WATER DISTRICT TERRY FARRELL	\$	379,500
						\$ 4,107,620	

SCHEDULE OF MAJOR 2017 COMPLETED WORK

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>
WATERLINE, GRADING	\$133,770	2171001	100%	CITY OF FORT COLLINS MISC 2017 FORT COLLINS	CITY OF FORT COLLINS
GRADIN, BASE., PAVING	\$151,079	2171002	100%	HIP HOPS BREWERY PAVING 2017 WINDSOR	PATRICK WEAKLAND
REMOVALS, GRADING, PAVING	\$225,637	217003	100%	COLLEGE & PROSPECT INTERSECT IMPROVE FORT COLLINS	NARANJO CIVIL CONSTRUCTORS JOHN LEONE
UTILITIES, GRADING, BASE PAVING, REMOVALS	\$1,141,482	2171004	100%	THE FOUNDRY UTILITY IMPROVEMENTS LOVELAND	CITY OF LOVELAND TANNER RANDALL
UTILITIES, GRADING, BASE PAVING, REMOVALS	\$1,916,759	2171005	100%	MOUNTAIN PACIFIC FIRST SUB LOVELAND	McCAULEY CONSTRUCTORS AMANADA MARTINEZ
GRADING, BASE, STORM SEWER	\$131,730	2171007	100%	RIGDEN UNDERDRAIN FORT COLLINS	CITY OF FROT COLLINS SUZANNE BASSINGER
STORM, SEWER, REMOVALS	\$152,987	2171008	100%	WALNUT ST SANITARY SEWER REHAB FORT COLLINS	CITY OF FORT COLLINS JAY ROSE
SEWER	\$82,638	2171009	100%	MONTEZUMA ALLEY SANITARY SEWER FORT COLLINS	CITY OF FORT COLLINS ANDREW GINGERICH
GRADING, BASE	\$98,279	2171010	100%	SE COMMUNITY PARK TOPSOIL EXPORT FORT COLLINS	CITY OF FORT COLLINS CRAIG KISLING
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$953,406	2171011	100%	THE FOUNDRY LOVELAND	BRINKMAN CONSTRUCTION RON NEW
REMOVALS, GRADING, BASE	\$1,083,826	2171012	100%	TIMNATH RESERVOIR PARK TIMNATH	TOWN OF TIMNATH STEVE HUMANN
UTILITIES, GRADING, BASE PAVING, REMOVALS	\$1,185,374	2171013	100%	TALON ESTATES FORT COLLINS	TALON ESTATES LLC DEVIN FERREY
WATERLINE, PAVING	\$108,065	2171014	100%	LYRIC CINEMAS FORT COLLINS	G.L. HOFF CONSTRUCTION JOEL REGER
REMOVALS, PAVING	\$186,474	2171015	100%	SPRADLEY BARR 2017 & 2018 FORT COLLINS	SPRADLEY BARR BILL BARR
GRADING, PAVING	\$186,939	2171017	100%	TRACTOR SUPPLY LOVELAND	GOLDEN TRIANGLE CONSTRUCTION TERRY SCHROADER
GRADING, BASE, PAVING STORM, REMOVALS	\$547,499	2171018	100%	CSU BIOLOGY BLDG FORT COLLINS	HASELDEN CONSTRUCTION BRENT HASELDEN
BASE, PAVING, GRADING STORM	\$157,855	2171021	100%	SECKNER ALLEY BURSTING FORT COLLINS	CITY OF FORT COLLINS JAY ROSE
REMOVALS, PAVING	\$1,024,455	2171022	100%	CSU LOT RESUFACING FORT COLLINS	COLORADO STATE UNIVERSITY DOUG MAYHEW
REMOVALS, PAVING	\$168,851	2171023	100%	DRAKE LOVELAND COMMONS LOVELAND	GOLDEN TRIANGLE CONSTRUCTION TERRY SCHROADER
WATERLINE, REMOVALS GRADING, BASE, PAVING	\$538,213	2171024	100%	CSU WEST LOOP WATERLINE FORT COLLINS	COLORADO STATE UNIVERSITY LAURA BENTLEY
REMOVALS, PAVING	\$182,008	2171025	100%	ADRIEL HILLS FORT COLLINS	ADRIEL HILLS HOA RALPH PANKEY
PAVING	\$45,270	2171026	100%	LCR 3 BRIDGE PAVING FORT COLLINS	DIETZLER CONSTRUCTION MARCIN GLISZEWSKI
REMOVALS, PAVING	\$76,398	2171027	100%	CSU STREET REPAIRS FORT COLLINS	COLORADO STATE UNIVERSITY JOEL CROMLEY
STORM, GRADING	\$355,426	2171028	100%	HARMONY GARDENS SITE WORK FORT COLLINS	HARMONY GARDENS CHRIS SERBOUSEK
UTILITIES, GRADING, REMOVAL BASE, PAVING	\$527,983	2171031	100%	PENSKE LOVELAND	EVERGREEN INDUSTRIAL JASON DOUCETTE

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>
WATERLINE, GRADING	\$79,648	2171032	100%	ZIMBELMAN WELL IMPROVEMENTS KEENESBURG	RENEW STRATAGIES PAULL NATION
REMOVALS, GRADING BASE, PAVING	\$217,445	2171035	100%	TIMNATH CR 40 OVERLAY TIMNATH	TOWN OF TIMNATH STEVE HUMANN
REMOVALS, GRADING BASE, PAVING, STORM	\$962,548	2171036	100%	RECONSTRUCTION OF CR 32E LARIMER COUNTY	LARIMER COUNTY JOE TEMPLE
REMOVALS, GRADING	\$108,435	2171037	100%	CSU CHRISTIANSON TRACK DEMO FORT COLLINS	COLORADO STATE UNIVERSITY STEVE KELLUMS
REMOVALS, PAVING	\$78,866	2171038	100%	PLUM STREET STUDENT HOUSING FORT COLLINS	DOHN CONSTRUCTION JENNIFER CHAVIES
SEWER, REMOVALS, BASE PAVING	\$817,191	2171039	100%	ASHCROFT DRAW GREELEY	J-2 CONTRACTING CHRIS LEONE
UTILITIES, GRADING, BASE PAVING	\$3,078,483	2171041	100%	FOX GROVE FORT COLLINS	LC HOMES BLAINE RAPPE
STORM, GRADING REMOVALS, BASE, PAVING	\$703,448	2171042	100%	RAWHIDE GRADE & DRAINAGE IMPROVE WELLINGTON	PLATTE RIVER POWER AUTHORITY BAIRD COOK
REMOVALS, BASE	\$61,188	2171044	100%	MOUNTAIN AVENUE SHADE STRUCTURE FORT COLLINS	BOHEMIAN FOUNDATION BRETT RINDT
GRADING, BASE, PAVING	\$64,027	2171045	100%	CHICK-FIL-A TIMNATH	PANTERRA CONSTRUCTION STEVE NEU
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,984,382	2171046	100%	VILLAGE ON HORSETOOTH FORT COLLINS	DENEUE CONSTRUCTION MIKE AILOR
STORM, WATERLINE, GRADING	\$1,633,534	2171047	100%	LEMAY SELF STORAGE FORT COLLINS	MCCAULEY CONSTRUCTORS GARVIN WESTHOFF
REMOVALS, PAVING, GRADING BASE	\$658,719	2171048	100%	US HWY 287 & SH 14 LARIMER COUNTY	COLORADO DEPT OF TRANSPORTATION LONG NYGUEN
GRADING, BASE, PAVING	\$86,098	2171050	100%	ST. SPRIDON GREEK ORTHODOX CHURCH LOVELAND	BVB GENERAL CONTRACTORS BRIGHTON
REMOVALS, GRADING, BASE, PAVING	\$164,500	2171051	100%	ROCKY MOUNTAIN TRANSLOAD WINDSOR	ROCKY MOUNTAIN TRANSLOAD WALT SANDERS
WATERLINE, REMOVALS GRADING, BASE	\$1,062,927	2171052	100%	CURTIS LAKE PUMP BARGE FORT COLLINS	WATER SUPPLY & STORAGE DENNIS HARMON
WATERLINE, STORM, BASE REMOVALS, PAVING	\$868,843	2171053	100%	SOUTH CARTER LAKE CAMPGROUND LOVELAND	LARIMER COUNTY BRIAN O'DONNELL
REMOVALS, PAVING	\$87,239	2171054	100%	LAGO VISTA PARK MILL & PAVE 2017 LOVELAND	LAGO VISTA PARK JIM WRIGHT
STORM, BASE, PAVING	\$1,500,397	2171055	100%	LCAC 2017-2018 LARIMER COUNTY	LARIMER COUNTY ERICH PURCELL
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,169,752	2171056	100%	AURORA ORGANIC DAIRY PLATTEVILLE	AURORA ORGANIC DAIRY DWAYNE FORSYTH
WATERLINE	\$533,359	2171057	100%	CURTIS LAKE PUMP BARGE FORT COLLINS	WATER SUPPLY & STORAGE DENNIS HARMON
WATERLINE, REMOVALS PAVING	\$155,062	2171058	100%	PINE STREET WATERLINE FORT COLLINS	CITY OF FORT COLLINS JAY ROSE
UTILITIES	\$404,958	2171059	100%	LUTZ SPORTS COMPLEX ARVADA	ECI SITE CONSTRUCTION MGMT ANNA HOEHN
GRADING, BASE, PAVING	\$74,997	2171060	100%	FRONT RANGE VILLAGE LOT 4 FORT COLLINS	RAND CONSTRUCTION NICHOLAS PAGANELLI
GRADING, BASE PAVING	\$78,876	2171061	100%	FRONT RANGE VILLAGE LOT 6 FORT COLLINS	RAND CONSTRUCTION NICHOLAS PAGANELLI
UTILITIES, REMOVALS GRADING	\$511,567	2171062	100%	FREEDOM SELF STORAGE FORT COLLINS	FREEDOM SELF STORAGE AMY TJARDES
PAVING, WATERLINE, BASE	\$765,600	2171063	100%	WILSON & SHUBERT WATERLINES	CITY OF LOVELAND

<i>TYPE OF WORK</i>	<i>CONTRACT AMOUNT</i>	<i>JOB #</i>	<i>PERCENT COMPLETE</i>	<i>JOB NAME LOCATION</i>	<i>OWNER CONTACT</i>
GRADING				LOVELAND	CARLOS MEDINA
GRADING, BASE, PAVING STORM, REMOVALS	\$740,308	2171064	100%	NCMC DOCTOR'S PARKING GREELEY	BANNER HEALTH DAVE HERBERT
WATERLINE	\$102,707	2171065	100%	4TH STREET WATERLINE REPAIR GREELEY	CITY OF GREELEY ADAM PRIOR
STORM, REMOVALS, GRADING BASE, PAVING	\$451,125	2171066	100%	CP 505 SITE WORK LOVELAND	CENTERRA METRO DISTRICT NO. 1 BRIAN DOBLE
UTILITIES, GRADING, BASE PAVING	\$656,727	217067	100%	COURTYARD MARRIOTT LOVELAND	COE CONSTRUCTION CHRIS DEMMLER
UTILITIES, REMOVALS, BASE GRADING, PAVING	\$1,621,448	2171068	100%	SEVERANCE HIGH SCHOOL SEVERANCE	WELD COUNTY RE-4 BUDDY VIEROW
SEWER, STORM, GRADING BASE	\$295,022	2171069	100%	REPLACEMENT OF STRUCTURE LARIMER COUNTY	LARIMER COUNTY JOE TEMPLE
STORM, WATERLINE, PAVING REMOVALS	\$64,129	2171072	100%	THE EXCHANGE WATER CONNECTIONS FORT COLLINS	BRINKMAN CONSTRUCTION MIKE RICE
REMOVALS, GRADING, PAVING	\$182,192	2171073	100%	REGISTRY RIDGE PATCHING FORT COLLINS	SCOTT CONTRACTING MITCHELL JONES
REMOVALS, PAVING	\$83,646	2171074	100%	LOVELAND SERVICE CENTER LOVELAND	CITY OF LOVELAND LEE VAN ALSTYE
BASE, PAVING	\$105,057	2171076	100%	LARIMER COUNTY FOOD BANK LOVELAND	DOHN CONSTRUCTION JOHN REHMER
BASE, PAVING	\$84,366	2171078	100%	GREELEY CITY CENTER GREELEY	HENSEL PHELPS KYLE ORLANDO
GRADING, BASE, PAVING	\$396,810	2171082	100%	SOUTH COLLEGE STORAGE FORT COLLINS	CYS GENERAL CONTRACTING, LLC DAVID HARVEY
BASE, PAVING	\$726,270	2171084	100%	SPRINGHILL SUITES WINDSOR	CONSTRUCTION MANAGEMENT, INC RON ETCHHELLS
REMOVALS, BASE, PAVING	\$163,024	2171085	100%	UNITED RENTALS MILL & PAVE FORT COLLINS	JACK MARKLE
UTILITIES, GRADING, BASE. PAVING, REMOVALS	\$4,138,394	2171087	100%	MOUNTAIN VIEW WEST JOHNSTOWN	PARISH LLC DENNIS TREGO
WATERLINE, REMOVALS	\$97,172	2171088	100%	LCR 9 WATERLINE REPLACEMENT LARIMER COUNTY	ELCO WATER DISTRICT RANDY SIDDENS
WATERLINE, REMOVALS, GRADING, PAVING	\$567,766	2171089	100%	WALNUT STREET WATERLINE FORT COLLINS	CITY OF FORT COLLINS JAY ROSE
UTILITIES, GRADING, BASE. PAVING, REMOVALS	\$4,846,167	2171090	100%	WELD RE-4 HIGH SCHOOL ONSITE SEVERANCE	SAMPSON CONSTRUCTION CODY LYSTER
STORM, REMOVALS, BASE GRADING	\$1,868,167	2171091	100%	NECCO PH 2 FORT COLLINS	CITY OF FORT COLLINS LINSEY CHALFANT
UTILITIES, GRADING, BASE. PAVING, REMOVALS	\$5,161,640	2171092	100%	SAVANNA 2ND - KENDALL PKWY PH 2 LOVELAND	CENTERRA METRO DISTRICT NO. 1
GRADING	\$83,829	2171093	100%	RIGDEN BANK STABILIZATION PH 2 FORT COLLINS	CITY OF FORT COLLINS RYAN KOGUT
WATERLINE, GRADING	\$1,176,895	2171095	100%	SCHRANDT LOST CREEK KEENESBURG	RENEW STRATAGIES PAULL NATION

Connell Equipment List

Excavators & Backhoes	
5	CAT 416/436 Tractor Backhoes
4	KOM 160 Track Excavator
6	KOM 200 Track Excavator
5	KOM/CAT 300 Track Excavator
6	KOM/CAT 400 Track Excavator
1	KOM 650 Track Excavator
Scrapers	
8	CAT 627
3	CAT 615
Front End Loaders	
12	CAT 938 – 950 Loader
12	CAT 966 – 980 Loader
2	CAT 988 H
7	John Deere Landscape Loader
Motor Grader	
12	140 H/M Motor Grader
3	14 H/M Motor Grader
Off Road Haul Trucks	
4	CAT 740 (40 Ton) Haul Truck

3	CAT 735 (35 Ton) Haul Truck
Legal Haul Trucks	
10	Tandem Axle Dump Trucks
19	Tractor Trucks (Belly Dumps, Side Dumps, Live Bottom Trailers)
Track Dozers	
6	CAT D6H XL/LGP Dozer
2	CAT D8T Dozer
Paving Equipment	
3	CAT 1055F Paver
1	Bomag 8' Paver
1	RoadTec Shuttle Buggy MTV
1	RoadTec RX700-3 Rotomill
1	Wirtgren W120Fi Rotomill
Multiple Sizes and Configurations of Rollers	
Trench Boxes	
Multiple Sizes and Configurations of Boxes	
Pumps & Generators	
Many	25 KW - 700 KW Generators
Many	2" – 8" (Trash, Submersible and Dry Pumps)

ERIC MARSH - PROJECT MANAGER & ESTIMATOR

CONNELL

ABOUT Eric has over 20 years of construction and estimating experience. While pursuing his CM degree, he worked on the asphalt paving crew as a laborer and operator. The combination of hands-on construction experience, educational background and mastery of estimating techniques gives Eric a comprehensive set of skills for his estimating and project management duties.

PROFESSIONAL EXPERIENCE **MULBERRY OVERLAY | FORT COLLINS, CO | \$6.0 MILLION**
COLORADO DEPARTMENT OF TRANSPORTATION | MIKE KEEN
Project Manager and Estimator for highly visible project that extended from Lemay to I-25 in Fort Collins. Project included removal of full depth asphalt, earthwork, storm drains, concrete flatwork, aggregate base, asphalt paving, electrical, landscaping and extensive traffic control.

SH 14 AND GREENFIELDS COURT FRONTAGE ROAD | FORT COLLINS, CO | \$1.8 MILLION
LARIMER COUNTY, CO | DARRELL MORRELL 970-481-3845

Project Manager and Estimator for this intersection improvement project. The work consisted of realigning the frontage roads on both the north and south side of SH 14 at Greenfields Court, as well as a missing connection on the south west frontage road. The work consisted of asphalt removal, extending an existing concrete box culvert, earthwork and regrading, removal and resetting of structures, installation of curb and gutter and stormwater structures, and asphalt paving.

LARIMER COUNTY OVERLAY | LARIMER COUNTY, CO | \$5.0 MILLION
LARIMER COUNTY, CO | DARRELL MORRELL 970-481-3845

Project Manager and Estimator for 12 miles of patching, leveling and overlaying county roads in Red Feather Lakes and North Fort Collins. This project consisted of milling, leveling, aggregate base course shouldering, paving fabric and asphalt paving.

US 40 EAST/WEST OVERLAY | STEAMBOAT SPRINGS, CO | \$5.6 MILLION
COLORADO DEPARTMENT OF TRANSPORTATION | DEBBIE MCCLAIN 970-824-5010

Project Manager/Estimator for very traffic laden highway through downtown Steamboat Springs. Performed over 15,000 of tons of night milling and paving to keep traffic delays to a minimum. Coordination with many entities to ensure that the City of Steamboat Springs wasn't shut down. Also re-wired and coordinated the shut down and switch over of 5 intersection traffic signals for improvements. Worked with owner's reps on the design as we built it to ensure schedule and budget was met at the end.

WORK EXPERIENCE

- Connell Resources, Inc. - Project Manager & Estimator 2002 - Present
- Connell Resources, Inc. - Operations Manager (Steamboat Springs Office) 2010 - 2017
- LaFarge Corporation - Project Manager & Superintendent 2001 - 2002
- Connell Resources, Inc. - Equipment Operator and Laborer 1998 - 2001

EDUCATION

COLORADO STATE UNIVERSITY - FORT COLLINS, COLORADO
BACHELOR OF SCIENCE IN CONSTRUCTION MANAGEMENT, 2002

JOB DESCRIPTION	Mr. Van Dyke has over 30 years of field experience and site management experience in the asphalt paving industry. Experience includes heavy equipment operator, asphalt paving equipment operator, paving superintendent.	
PROJECT HIGHLIGHTS	- Mulberry Overlay - SH 14 and Greenfields Court - Town of Severance Paving	- Costco Warehouse - Foothills Mall Redevelopment - SH 85 Ault - Wyoming Border
PROFESSIONAL EXPERIENCE	CONNELL RESOURCES, INC. 2014 - Present Paving Supervisor	ELAM CONSTRUCTION 1986-2014 Asphalt Supervisor
EDUCATION	OSHA 10 HOUR CERTIFICATION	

FACTS:

PROJECT TYPE: HARD BID

DELIVERY METHOD: UNIT PRICE

CONTRACT AMOUNT: \$ 5,967,240.45

COST AT COMPLETION: \$ 5,962,612.0

CHANGE ORDER INFORMATION: ADDITIONAL
SCOPE ADDED.

ORIGINAL SCHEDULE: 105 WORKING DAYS

ACTUAL COMPLETION: 105 WORKING DAYS

PROJECT MANAGER: ERIC MARSH

SITE MANAGER: LLOYD DESCHENE



FORT COLLINS, COLORADO

SH 14 – LEMAY TO I-25

Project Description

On CO 14 in Ft. Collins between Lemay Street and I-25, work consisted of 3-4" mill and overlay, full depth turn lane widening, most of which was all done at night, full depth road reconstruction on eastbound SH 14 from Timberline to Summitview, detour paving, concrete curb and gutter, ADA curb ramp replacements, cable rail section in median, reset signal pull box's, culvert extension, signal work, signing and striping in Larimer County.



Owner and Engineer:
CDOT
MIKE KEEN
970-301-0647

FACTS:

DELIVERY METHOD: HARD BID

CONTRACT AMOUNT: \$ 1,034,000

COST AT COMPLETION: \$ 1,030,000

CHANGE ORDER INFORMATION: ADDED SCOPE

ORIGINAL SCHEDULE: MAY - AUGUST

ACTUAL COMPLETION: MAY - AUGUST

PROJECT MANAGER: PAUL HUNT

SITE MANAGER: ED WELLS



Project Description

Reconstruction of existing parking lots and roads throughout CSU's Campus systems.

Highly coordinated work with CSU Facilities to ensure access to buildings for summer conferences and university activities was maintained.

Tight schedules with all work being completed during summer break, May 20th – August 16th.



Owner
COLORADO STATE UNIVERSITY
TONY FLORES
970-491-7110

FACTS:

PROJECT TYPE: UNIT PRICE

DELIVERY METHOD: HARD BID

CONTRACT AMOUNT: \$ 4,393,446.59

COST AT COMPLETION: \$ 5,008,076

CHANGE ORDER INFORMATION: ADDED SCOPE

ORIGINAL SCHEDULE: 60 WORK DAYS

ACTUAL COMPLETION: 60 WORK DAYS

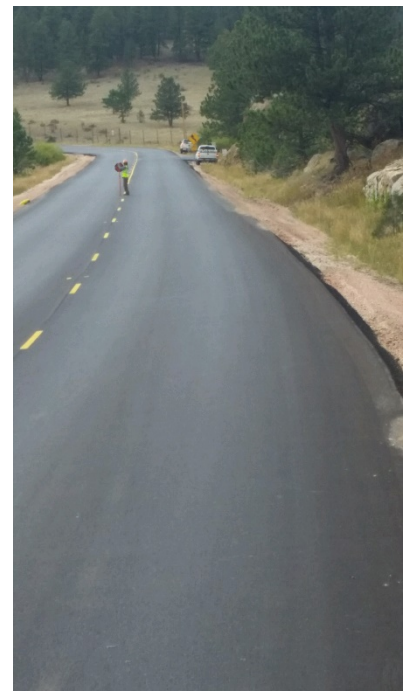
PROJECT MANAGER: ERIC MARSH

SITE MANAGER: ED WELLS



Project Description

This project consisted of patching, leveling and overlaying 12.3 miles of county road in the Red Feather Lakes and North Fort Collins area. Approximately 6,601 tons of Aggregate Base Course Shoulder and 43,967 tons of Hot Mix Asphalt were included in the work. Larimer County requested additional work sites, including, Improvement Districts and County roads.



Owner and Engineer:
LARIMER COUNTY, CO
TODD JUERGENS
970-498-56533



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/20/2020

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

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

PRODUCER License # 0757776 HUB International Insurance Services (COL) 2000 S. Colorado Blvd Tower 2, Suite 150 Denver, CO 80222	CONTACT NAME: Lynn Bosman PHONE (A/C, No, Ext): (303) 252-3762 FAX (A/C, No): E-MAIL ADDRESS: Lynn.bosman@hubinternational.com
INSURER(S) AFFORDING COVERAGE	
INSURER A : Liberty Mutual Fire Insurance Company	
INSURER B : Liberty Insurance Corporation	
INSURER C : Pinnacol Assurance Company	
INSURER D : Indian Harbor Insurance Company	
INSURER E :	
INSURER F :	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR	X	X	TB2-Z91-471737-020	6/1/2020	6/1/2021	EACH OCCURRENCE \$ 2,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000						
	MED EXP (Any one person) \$ 10,000						
	PERSONAL & ADV INJURY \$ 2,000,000						
	GENERAL AGGREGATE \$ 4,000,000						
GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PROJECT ☐ LOC OTHER:							PRODUCTS - COMP/OP AGG \$ 4,000,000
A	☒ AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	X	X	AS2-Z91-471737-010	6/1/2020	6/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
B	☒ UMBRELLA LIAB ☐ EXCESS LIAB	X	X	TH7-Z91-471737-030	6/1/2020	6/1/2021	EACH OCCURRENCE \$ 10,000,000
	☐ CLAIMS-MADE ☒ RETENTION \$ 10,000						AGGREGATE \$ 10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	4029651	6/1/2020	6/1/2021	☒ PER STATUTE ☐ OTH-ER
	E.L. EACH ACCIDENT \$ 1,000,000						
	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000						
	E.L. DISEASE - POLICY LIMIT \$ 1,000,000						
D	Professional Liab.			CEO744602704	6/1/2020	6/1/2021	2,000,000 /
	Pollution Liability			CEO744602704	6/1/2020	6/1/2021	2,000,000 /

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 This section intentionally left blank.

CERTIFICATE HOLDER**CANCELLATION**

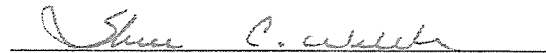
Connell Resources Inc 7785 Highland Meadows Parkway, Suite 100 Fort Collins, CO 80528	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

MINUTES OF ANNUAL MEETING OF
SERIES A SHAREHOLDERS AND DIRECTORS OF
CONNELL RESOURCES, INC.

The undersigned, being all of the Series A shareholders (the "shareholders") and directors of Connell Resources, Inc., a Colorado corporation (the "Corporation") take the action set forth below, and to evidence their waiver of any right to dissent from such action, consent as follows:


RICHARD CONNELL
Shareholder and Director


TONY A. CONNELL
Shareholder and Director


SHERI C. WELCH
Shareholder and Director


SANDRA C. HEINE
Shareholder

By informal action the Series A shareholders unanimously elected the following persons as directors of the Corporation to serve until the next annual meeting or until their successors have been elected and qualified:

Richard Connell
Tony A. Connell
Sheri C. Welch

By informal action the shareholders unanimously elected the following persons to the offices stated beside their respective names until the next annual meeting or until their successors have been elected and qualified:

Richard Connell	Chairman of the Board
John M. Warren	President Authority to sign bids, bonds, contracts, change orders, subcontracts, lien releases and equipment rentals. Authority to sign equipment contracts up to \$50,000. No authority to borrow funds on behalf of the company. Authorized bank signer on disbursement and payroll account.
Tony A. Connell	Vice President Authority to sign bids, bonds, contracts, change orders, subcontracts and lien releases. Authorized signer on disbursement and payroll account. No authority to borrow funds on behalf of the company.
William S. Anderson	Vice President of Estimating Authority to sign bids, bonds, contracts, change orders, subcontracts and lien releases. No authority to borrow funds on behalf of the company.
Kevin D. Anderson	Aggregate Development Manager Authority to sign gravel pit related contracts and asphalt oil supply contracts including transportation. No authority to borrow funds on behalf of the company.
Sheri C. Welch	Vice President and Chief Financial Officer, Secretary/ Treasurer Authority to sign lien releases, administrative and equipment contracts. Authorized bank signer on bank accounts and certificates of deposit. Authority to borrow funds on behalf of the company up to \$1,500,000.
Jennifer Lindblad	Assistant Secretary, Authority to attest on corporate documents.
Margie L. Lewis	Assistant Secretary, Authority to attest on corporate documents.

By informal action the shareholders unanimously ratified all actions of the officers taken over the past year on behalf of the Corporation within the scope of their authority.

This informal action of shareholders may be executed in counterparts.

This informal action is effective as of December 16, 2019.

Respectfully submitted,

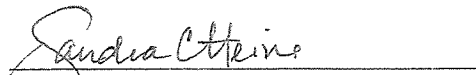

Sheri C. Welch
Secretary

APPROVED:


RICHARD CONNELL, Chairman


TONY A. CONNELL


SHERI C. WELCH


SANDRA C. HEINE



Date: 06-03-2020

Attention: Bidding Asphalt Contractors

Via email

Reference: 2020 Town of Wellington Roads Asphalt Repair Project – Addendum 1

Pre-Proposal Meeting

- The meeting has been moved to 1:00 PM Monday June 8, 2020. The address for the meeting will be 3800 Wilson Ave., Wellington, CO 80549. The Leeper Center.
- Social distancing per CDC and County requirements will be expected to be followed.
- Face masks will be REQUIRED.
- A maximum of ONE (1) representatives from each firm will be allowed to attend the meeting.
- This will be a joint meeting with the 2020 Town of Wellington Roads Concrete Repair Project bidding contractors as well.
- The Contractors are invited to visit the various after the meeting has concluded.

Questions before Pre-Proposal meeting answered 06-03-2020

1. Where do I find the General and Special Conditions to the contract? These will be available, along with all supporting contract documents on June 05, 2020. The primary point of contact will receive these via email.

Regards,

TOWN OF WELLINGTON

Vincent J. Gentry

Engineering Technician III,

Phone: (970) 568-0447

Email: gentryvj@wellingtoncolorado.gov



Date: 06-10-2020

Attention: Bidding Asphalt Contractors

Via email

Reference: 2020 Town of Wellington Roads Asphalt Repair Project – Addendum 2

Questions at the Pre-Proposal meeting and others answered by 06-10-2020

1. On page 1 of 7, will we be placing new sidewalk in existing landscaping? No, the sidewalk is existing and will be replaced.
2. Can ABC (aggregate base coarse) be used for a suitable fill material? Yes
3. Can recycled concrete be used as a base or fill material? No, if the contractor receives a letter of recommendation from a qualified professional engineer on the source and stability of recycled concrete it may be considered.
4. Can the plans have better definition of what is to be removed and replaced and what is to be new construction? Yes, that will be included with the final addendum.
5. Is there a provision in the concrete repair project quantities for the manhole and valve box re-rings? No, the re-rings (concrete collars) are in the asphalt repair project and will stay there for matters of construction scheduling.
6. On page 5 of 7, will there be more detail on Third and Harrison? Yes, that will be included with the final addendum.
7. There is a discrepancy in the bidding documents on the proposal deadline time. The proposal deadline is Friday, June 19, 2020 at 4:00.
8. Does the Town have any area to dispose of removed concrete? No, we have an area to store removed concrete, the contractor is responsible for disposal of removed concrete.
9. Does the Town have an area to dispose of removed asphalt? The Town has a place for asphalt millings, the Town does not have a place to dispose of large pieces of asphalt. The contractor is responsible for disposal of removed asphalt.
10. Can an excel spreadsheet of the quantities be provided? Yes, that will be included with the final addendum.
11. How will traffic control be managed between the concrete repair project and the asphalt repair project? Would it make sense for one company's traffic control stay for the length of the project? These specific details can be worked out between the Town and the awarded contractors based off of construction schedules.

Thank you for your time and have a great day.

Regards,

TOWN OF WELLINGTON

Vincent J. Gentry

Engineering Technician III,

Phone: (970) 568-0447

Email: gentryvj@wellingtoncolorado.gov



Date: 06-15-2020

Attention: Bidding Asphalt Contractors
Via email

Reference: 2020 Town of Wellington Roads Asphalt Repair Project – Addendum 3

Questions asked after addendum 2.

1. May an individual submit a bid without attending the pre-conference meeting? Bids submitted without attendance at the meeting will not be considered.

Updated plans and an asphalt quantity spread sheet will be added to the provided materials.

Thank you for your time and have a great day.

Regards,

TOWN OF WELLINGTON

Vincent J. Gentry

Engineering Technician III,

Phone: (970) 568-0447

Email: gentryvj@wellingtoncolorado.gov

SECTION 00520

AGREEMENT

THIS AGREEMENT is dated as of the ___ day of July in the year of 2020. The Town of Wellington (hereinafter called OWNER) and Connell Resources Inc. (hereinafter called CONTRACTOR), in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

CONTRACTOR shall complete all work as specified or indicated in the Contract Documents. The work under the Contract Documents is generally described as the **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT** or part thereof as defined in the Notice of Award.

ARTICLE 2. ENGINEER

The Project has been designed by the Town of Wellington who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

3.1 The Work will be substantially completed on or before Friday October 16, 2020 and completed and ready for final payment in accordance with paragraph 14.07 of the General conditions on or before Friday October 23, 2020.

3.2 Early completion and time extensions.

OWNER explicitly states that the time stated in the agreement for Substantial Completion has been considered in respect to OWNER's use of the facilities. An early completion time shall not entitle CONTRACTOR to additional monies should events, construction, or any other events not allow CONTRACTOR to complete work in accordance with an accelerated construction schedule.

Float or slack time in the schedule is for the exclusive use of OWNER and at no additional cost to the OWNER. CONTRACTOR acknowledges and agrees that delays in activities which do not in fact actually affect the date or time of contract completion, or any milestone completion dates listed in the contract, will not be the basis for a change. Extensions of time will be granted only to the extent that an activity or activities effect exceeds the total float or slack along the channels involved at the time notice to proceed was used for the change.

3.3 Liquidated Damages

OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$ 500 for each day that expires after the date specified above for Substantial Completion for each Schedule until the

Work is substantially complete, (but not to be additive if more than one Schedule is not complete at the same time). After Substantial Completion if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the time specified for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$ 500 for each day that expires after the time specified for completion and readiness for final payment for each Schedule, (but not to be additive if more than one Schedule is not complete at the same time).

The foregoing liquidated damages pertain solely to OWNER's costs and not to damages claimed against the OWNER or CONTRACTOR by any other third party. CONTRACTOR is responsible for third party damages.

ARTICLE 4. CONTRACT PRICE

4.1. OWNER shall pay CONTRACTOR for performance of the work in accordance with the CONTRACT DOCUMENTS in current funds as follows: Two Hundred Fifty-eight Thousand, One Hundred Twenty Eight Dollars and zero cents. (\$258,128.00) in accordance with the Bid Form, Section 00300 and the Notice of Award, Section 00580, attached.

ARTICLE 5. PAYMENT PROCEDURES

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

5.1. PROGRESS PAYMENTS. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Application for Payment as recommended by ENGINEER, once each month during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed).

5.1.1 RETAINAGE. Retainage from progress payments shall be withheld as stated below. Owner OWNER shall retain from progress payments, until payment is due under the terms and conditions governing final payments, amounts as follows:

Retention of 5 percent of payments authorized until the Work is 50 percent complete.

After the Work is 50 percent complete, no further retainage shall be withheld from subsequent progress payment unless, in the opinion of the ENGINEER, satisfactory progress is not being made. When the Work is 50 percent complete and, in the opinion of the ENGINEER, satisfactory progress is not being made retainage may continue to be withheld at 10 percent of payments. At any time after the Work is 50 percent complete and, in the opinion of the ENGINEER, satisfactory progress is not being made retainage may be reinstated to 5 percent of the total amount of all progress payments.

After the Work is substantially complete the retained amount will continue to be 5 percent of the total Contract Price until Final Completion.

5.2. FINAL PAYMENT. Upon final completion and acceptance of the work in accordance with the General Conditions and the Supplementary Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER.

ARTICLE 6. CONTRACTOR'S REPRESENTATION

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

6.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, work, site, locality, and with all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the work.

6.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in the General Conditions.

6.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies (in addition to or to supplement those referred to above) which pertain to the subsurface or physical condition at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as CONTRACTOR considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provision of the General Conditions.

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

6.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

ARTICLE 7. CONTRACT DOCUMENTS

7.1 The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR concerning the work consisting of the following documents:

- 7.1.1 This Agreement (0520)
- 7.1.2 Construction Performance Bond (0610)
- 7.1.3 Construction Payment Bond (0615)
- 7.1.4 Notice of Award (0580)
- 7.1.5 Notice to Proceed (0590)

- 7.1.6 General Conditions (C-700)
- 7.1.7 Supplementary Conditions (0800)
- 7.1.8 Consent of Surety Form (0660)
- 7.1.9 Certificates of Insurance (0630)
- 7.1.10 Certificate of Substantial Completion (0635)
- 7.1.11 Certificate of Final Acceptance (0640)
- 7.1.12 Lien Waiver Release (Contractor) (0650)
- 7.1.13 Lien Waiver Releases (Subcontractors) (0651)
- 7.1.14 Application of Exemption Certificate
- 7.1.15 Application for Payment
- 7.1.16 Technical specifications as listed in Table of Contents.
- 7.1.17 Addenda Numbers **1** to **3**, inclusive.
- 7.1.18 Contractor's Bid.
- 7.1.19 Documentation submitted by Contractor prior to Notice of Award.
- 7.1.20 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All written amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.
- 7.1.21 The documents listed in this Article 7 are attached to this Agreement (except as expressly noted otherwise above).
- 7.1.22 Prohibition Against Employing Illegal Aliens (0600)

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

7.2. All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

ARTICLE 8. MISCELLANEOUS

8.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and

specifically but not without limitations, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge that assignor from any duty or responsibility under the Contract Documents.

8.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreement and obligations contained in the Contract Documents.

8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.5 Special provision relating to contract interpretation. The parties hereto agree that in the event it becomes necessary to determine the meaning, scope or interrelationship of any of the provisions of this contract, the doctrine of contra proferentum, that is that the contract documents shall be construed against the OWNER, shall not be used. On the contrary, the standard for interpretation dictates that the meaning of a questionable contract passage is that which a reasonably intelligent person acquainted with all operative usages and knowing all the facts and circumstances of the contract prior to and contemporaneously with the making of the contract would assign to it.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in four counterparts. Two counterparts have been delivered to CONTRACTOR who shall deliver one counterpart to the Surety and one counterpart delivered to OWNER and one counterpart has been retained by ENGINEER.

This Agreement will be effective on _____, 20___. (Which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

Town of Wellington

By Kelly Houghteling

By _____

Signature

Signature

Title Interim Town Administrator

Title _____

(CORPORATE SEAL)

Attest _____

Attest _____

Address for giving notices:

Telephone

Address for giving notices

Telephone

END OF AGREEMENT

SECTION 00580

NOTICE OF AWARD

July 7, 2020

TO: Connell Resources Inc.

Address: 7785 Highland Meadows Parkway, Suite 100,
Fort Collins, CO. 80528

Project: 2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT

The Town of Wellington, Colorado (hereinafter called "the OWNER") has considered the bids submitted for referenced work in response to its Advertisement for Bids.

You are hereby notified that your Bid dated June 19, 2020 has been considered. You are the apparent Successful Bidder and have been awarded a contract for the work (or part there of as described as follows): Asphalt paving work on nine (9) town blocks and two (2) intersections with one (1) intersection and one (1) block as an add alternate within the Old Town portion of Wellington and Indicated in the construction drawings:

- Ruffian Way and Mammoth Circle (1 intersection)
- Viewpointe Drive and Adams Drive (1 intersection)
- 3rd Street (Wilson to Henderson) (1 block)
- 4th Street (Cleveland to Harrison) (1 block)
- 4th Street (Grant to Wilson) (2 blocks)
- 5th Street (Hays to Grant) (1 block)
- 6th Street (Harrison to Grant) (3 blocks)
- Adams Court and Kit Fox Drive (1 intersection) (add alternate)
- Harrison Avenue and 3rd Street (1block) (add alternate)

The Contract Price of your contract is Two Hundred Fifty-eight Thousand, One Hundred Twenty Eight Dollars and zero cents. (\$258,128.00)

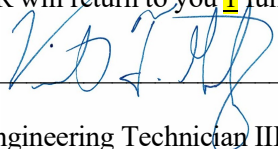
2 copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

2 sets of the Drawings will be delivered separately or otherwise made available to you immediately.

1. You must deliver to the OWNER 2 fully executed counterparts of the Agreement including all the Contract Documents, this includes the Drawings.
2. You must deliver with the executed Agreement the Contract Security (bonds) as specified in the General Conditions and Supplementary Conditions.

Failure to comply with these conditions within the time specified will entitle OWNER to consider your bid in default, to annul this Notice of Award and to declare your Bid Security forfeited.

OWNER will return to you **1** fully signed counterpart of the Agreement with the Contract Documents attached.

By: 

Title: Engineering Technician III

ACCEPTANCE OF AWARD

By: _____

Title: _____

Date: _____

END OF SECTION

SECTION 00590

NOTICE TO PROCEED

Dated _____

TO: _____

Address: _____

Project: **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**

You are notified that the Contract Times under the above contract will commence to run on _____, 20____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement, the date of Substantial Completion is _____ and the date for completion and readiness for final payment is _____

Before you may start any Work at the site, you and OWNER must each deliver to the other (with copies to ENGINEER and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

OWNER: _____

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Contractor: _____

By: _____

Title: _____

Date: _____

END OF SECTION

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 00600

PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

This paragraph shall apply to all Contractors whose performance of work under this Agreement does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor represents and agrees that:

1. As of the date of this Agreement:
 - a. Contractor does not knowingly employ or contract with an illegal alien; and
 - b. Contractor has participated or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the “Basic Pilot Program”) in order to confirm the employment eligibility of all newly hired employees.
2. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement.
3. Contractor shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Contractor is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.
4. Contractor is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:
 - a. Notify such subcontractor and the Town within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the “Department”) made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

7. If Contractor violates a provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Agreement. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of Contractor's violation of Subsection 8-17.5-102, C.R.S.
8. The Town will notify the Office of the Secretary of State if Contractor violates this provision of this Agreement and the Town terminates the Agreement for such breach.

END OF SECTION

Construction Performance Bond

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

CONTRACTOR (Name and address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

The Town of Wellington

3735 Cleveland Avenue

PO Box 127

Wellington, CO 80549

ATTN: Bob Gowling, Public Works Director

Telephone: 970-568-0447

CONSTRUCTION CONTRACT

Date:

Amount: _____

Description (Name and Location): **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**, Wellington, Colorado,
Larimer County.

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT

Construction Performance Bond

00610 - 1 -

1. Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the contractor and the Surety agree, the contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right if any, subsequently to declare a Contractor Default; and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contracts; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the Contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and , as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract. to the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damage on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default; and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner of the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to

the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

- 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY - Name, Address and Telephone)
AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

(THIS PAGE INTENTIONALLY LEFT BLANK)

Construction Payment Bond

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

CONTRACTOR (Name and address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

The Town of Wellington

3735 Cleveland Avenue

PO Box 127

Wellington, CO 80549

ATTN: Bob Gowing, Public Works Director

Telephone: 970-568-0447

CONSTRUCTION CONTRACT

Date:

Amount: _____

Description (Name and Location): **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**, Wellington, Colorado,
Larimer County.

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form: interest at the rate of eight percent (8%) per annum will be paid on all payments becoming due.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

1. Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:

- 2.1 Promptly makes payment, directly or indirectly, for all sums due claimants, and
- 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

- 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 4.2 Claimants who do not have a direct contract with the Contractor:
 - 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were finished or supplied or for whom the labor was done or performed; and
 - 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 - 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

- 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for

challenging any amounts that are disputed.

- 6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under his Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were finished by anyone under the Construction Contract, whichever of (1) or (2) occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be acceptable.

12. Notice to the Surety, the Owner of the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

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

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions.

- 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of

the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY - Name, Address and Telephone)
AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 00630

CERTIFICATE OF INSURANCE

Contractor shall insert his own standard form for Certificate of Insurance.

SECTION 00635

CERTIFICATION OF SUBSTANTIAL COMPLETION

TO: **The Town of Wellington** (OWNER)

DATE OF SUBSTANTIAL COMPLETION: PROJECT TITLE:

**2020 TOWN OF WELLINGTON ROAD
ASPHALT REPAIR PROJECT**

PROJECT OR SPECIFIED PART SHALL
INCLUDE:

LOCATION: Town of Wellington, CO

The Town of Wellington,

CONTRACTOR:

CONTRACT DATE: _____

The Work performed under this contract has been inspected by authorized representatives of the OWNER, CONTRACTOR, and the ENGINEER and the project (or specified part of the project, as indicated above) is hereby declared to be substantially completed on the above date.

A tentative list of items to be completed or corrected is appended hereto. This list may not be exhaustive, and the failure to include an item on it does not alter the responsibility of the CONTRACTOR to complete all the Work in accordance with the Contract Documents.

ENGINEER By: _____
AUTHORIZED REPRESENTATIVE DATE
The CONTRACTOR accepts the above Certificate of Substantial Completion and agrees to complete and correct the items on the tentative list within the time indicated.

CONTRACTOR By: _____
AUTHORIZED REPRESENTATIVE DATE
The OWNER accepts the project or specified area of the project as substantially complete and will assume full possession of the project or specified area of the project at 12:01 a.m., on _____. The responsibility for heat, utilities, security, and insurance under the Contract Documents shall be set forth under "Remarks" below.

The Town of Wellington By: _____
AUTHORIZED REPRESENTATIVE DATE
REMARKS:

SECTION 00640

CERTIFICATE OF FINAL ACCEPTANCE

_____, 20__

TO: _____

Gentlemen:

You are hereby notified that on the ____ day of _____, 20____, the **Town of Wellington**, Colorado, has accepted the Work completed by _____ for the project, **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**. A check is attached hereto in the amount of \$_____ as Final Payment for all Work done, subject to the terms of the Contract Documents which are dated: _____

In conformance with the Contract Documents for this project, your obligations and guarantees will continue for the specified time from the following date:_____.

Sincerely,

OWNER: **The Town of Wellington**

By:

Title:

ATTEST:

Title:

SECTION 00650

LIEN WAIVER RELEASE
(Contractor)

TO: **The Town of Wellington**
(hereinafter referred to as "Owner").

FROM: _____

PROJECT: That portion of **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT** described as follows: _____

1. The undersigned does hereby release all claims, Mechanic's Liens Rights, Miller Act Claims (40 USCA 270), Stop Notice, Equitable Liens and Labor and Material Bond Rights resulting from labor and/or materials, subcontract work, equipment or other work, rents, services or supplies heretofore furnished in and for the construction, design, improvement, alteration, additions to or repair of the above described project.
2. This release is given for and in consideration of the sum of \$_____ and other good and valuable consideration. If no dollar consideration is herein recited, it is acknowledged that other adequate consideration has been received by the undersigned for this release.
3. The undersigned agrees to defend and hold harmless the Owner, lender, if any, and Surety from any claim or claims hereinafter made by the undersigned or its Suppliers, Subcontractors or employees, servants, agents or assigns of such persons against the Project. The undersigned agrees to indemnify or reimburse all persons so relying upon this release for any and all sums, including attorney's fees and costs, which may be incurred as the result of any such claims.
4. It is acknowledged that the designation of the above Project constitutes an adequate description of the property and improvements for which the undersigned has received consideration for this release.
5. It is further warranted and represented that all such claims against the undersigned or the undersigned's Subcontractors or Suppliers have been paid or that arrangements, satisfactory to the Owner, have been made for such payments.
6. It is acknowledged that this release is for the benefit of and may be relied upon by the Owner, the lender, if any, and the principal and Surety on any labor and material bond for the Project.
7. In addition to the foregoing, this instrument shall constitute a *******(full, final and complete)*******(partial) release of all rights, claims and demands of the undersigned against the Contractor arising out of or pertaining to the above referenced project. If partial, all rights and claims on the project are released up to and including the ____ day of _____ 20__.

Dated this _____ day of _____, 20_____.

FIRM _____
Name of firm or person giving release

By

Title

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing release was subscribed and sworn to before me this ____ day of _____, 20____ by
_____ (as _____ of _____).

NOTARY PUBLIC

My commission expires: _____.

SECTION 00651

LIEN WAIVER RELEASE
(Sub-Contractor)

TO: **The Town of Wellington**
(hereinafter referred to as "Owner").

FROM: _____

PROJECT: That portion of **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT** described as follows: _____

1. The undersigned does hereby release all claims, Mechanic's Liens Rights, Miller Act Claims (40 USCA 270), Stop Notice, Equitable Liens and Labor and Material Bond Rights resulting from labor and/or materials, subcontract work, equipment or other work, rents, services or supplies heretofore furnished in and for the construction, design, improvement, alteration, additions to or repair of the above described project.
2. This release is given for and in consideration of the sum of \$_____ and other good and valuable consideration. If no dollar consideration is herein recited, it is acknowledged that other adequate consideration has been received by the undersigned for this release.
3. The undersigned agrees to defend and hold harmless the Owner, lender, if any, and Surety from any claim or claims hereinafter made by the undersigned or its Suppliers, Subcontractors or employees, servants, agents or assigns of such persons against the Project. The undersigned agrees to indemnify or reimburse all persons so relying upon this release for any and all sums, including attorney's fees and costs, which may be incurred as the result of any such claims.
4. It is acknowledged that the designation of the above Project constitutes an adequate description of the property and improvements for which the undersigned has received consideration for this release.
5. It is further warranted and represented that all such claims against the undersigned or the undersigned's Subcontractors or Suppliers have been paid or that arrangements, satisfactory to the Owner, have been made for such payments.
6. It is acknowledged that this release is for the benefit of and may be relied upon by the Owner, the lender, if any, and the principal and Surety on any labor and material bond for the Project.
7. In addition to the foregoing, this instrument shall constitute a *******(full, final and complete)*******(partial) release of all rights, claims and demands of the undersigned against the Contractor arising out of or pertaining to the above referenced project. If partial, all rights and claims on the project are released up to and including the ____ day of _____ 20____.

Dated this _____ day of _____, 20_____.

FIRM _____
Name of firm or person giving release

By

Title

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing release was subscribed and sworn to before me this _____ day of _____, 20____ by
_____ (as _____ of _____).

NOTARY PUBLIC

My commission expires: _____.

SECTION 00660

CONSENT OF SURETY

TO: **The Town of Wellington**
(hereinafter referred to as "OWNER").

CONTRACTOR: _____

PROJECT: **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**

CONTRACT DATE: _____

In accordance with the provisions of the Contract between OWNER and CONTRACTOR as indicated above,
for _____ on bond of (Surety) _____

Hereby approves of the final payment to CONTRACTOR, and agrees that final payment to the
CONTRACTOR shall not relieve the Surety company of any of its obligations to OWNER, as set forth in the
said Surety company's Bond.

IN WITNESS WHEREOF, the surety Company has hereunto to set its hand this _____ day of
_____, 20_____.

(Surety Company)

By _____

ATTACH: Power of Attorney and Certificate of Authority of Attorney(s)-in-Fact.

SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (1910-8, 2007 edition) as indicated below. All provisions not so amended, supplemented or modified remain in full force and effect.

SC-1.01 The following information is applicable to Article 1 – Definitions and Terminology. The terms used in these Supplementary Conditions which are defined in the General Conditions have the meanings assigned to them in the General Conditions, unless a modification of that definition is made herein.

Add the following definitions to paragraph 1.01:

Legal Holidays - those days observed as holidays by the Town/OWNER.

Regular Working Hours - hours defined as 7:00 a.m. to 6:00 p.m. unless otherwise specified in the General Requirements.

Reviewed - Shop Drawings that have been marked by ENGINEER, "No Exceptions Taken".

Town, TOWN, or OWNER – The Town of Wellington, Colorado.

Add the following language to Paragraph 1.01.A.19 of the General Conditions:

“The ENGINEER shall mean the Town of Wellington Engineering Department, attn Vincent Gentry

SC-2.03 Delete the last sentence of Paragraph 2.03 of the General Conditions.

SC-2.05 *Before Starting Construction:*

Add the following language to item A.2 of the General Conditions:

“In no case will a schedule be acceptable which allows less than 14 calendar days for each review by ENGINEER and its subconsultants.”

Add paragraph 2.05.B to the of the General Conditions:

“B. *Evidence of Insurance:* Before any work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to the ENGINEER, certificates (and other evidence of insurance requested by the OWNER) which CONTRACTOR is required to purchase and maintain in accordance with Article 5.”

SC-2.07 *Initial acceptance of schedules:* Delete the first sentence of paragraph 2.06 of the General Conditions and substitute the following:

“Unless otherwise provided in the Contract Documents, before work begins a conference attended by CONTRACTOR, ENGINEER, and others as designated by OWNER will be held to review for acceptability to ENGINEER the schedules submitted in accordance with the Conditions of the Contract and Division 1, General Requirements.”

SC-3.04 *Amending and Supplementing Contract Documents.* In paragraph B.2. of the General Conditions, delete the word "approval" and substitute in its place the word "review".

SC-4.01 *Availability of Lands:* Delete subparagraph B.

SC-4.02 *Subsurface and Physical Conditions:*

None

SC-4.03 *Differing subsurface or physical conditions:* Delete the paragraph following subpart A.4 of the General Conditions in its entirety and insert the following:

“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 permitted by paragraph 6.16), notify OWNER and ENGINEER about such condition. CONTRACTOR shall document the changed condition and in writing advise OWNER and ENGINEER of changes that CONTRACTOR believes should be made in the operation of the project due to such conditions. CONTRACTOR shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until an agreement can be reached on the course of action. Said course of action shall be transmitted to CONTRACTOR in writing.”

SC-4.04 *Underground Facilities.*

In paragraph A.2.b of the General Conditions., delete the words shown or indicated in the Contract Documents.

Delete subpart B. of paragraph 4.04 of the General Conditions in its entirety and insert the following:

“B. *Not Shown or Indicated:* If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents during construction and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated, CONTRACTOR shall promptly after becoming aware thereof (except in an emergency as required by paragraph 6.16), identify the OWNER of such Underground Facility and give 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 of the Underground Facility. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document such consequences. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.13. CONTRACTOR may be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or the amount or length of any such adjustment in Contract Price or Contract Times, CONTRACTOR may make a claim therefor as provided in Article 12. However, OWNER, ENGINEER and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses or damages incurred or sustained by CONTRACTOR on or in connection with any other project or anticipated project.”

SC-4.06 *Hazardous Environmental Condition at Site.*

Delete the first two sentences of Paragraph 4.06 B of the General Conditions and in Paragraph 4.06B of the General Conditions delete:

“Except for such reliance on such “technical data”.

Delete supports E, F, and G under this paragraph.

SC-5.01 *Performance, Payment and Other Bonds.* Add the following sentence to paragraph 5.1 of the General Conditions:

“All Bonds must be countersigned by an agent who is a resident of the State of Colorado and must be accompanied by a certified copy of the authority to act for the Surety and authority to transact business in the State of Colorado.”

SC 5.03 *Conditions of Insurance.* In paragraph B delete the word “with’ in the first sentence, “ Owner shall deliver to Contractor, ~~with~~ copies ...”

SC-5.04 *CONTRACTOR’s Liability Insurance.* The limits of liability for the insurance required by Article 5.04 of the General Conditions shall provide the following coverages for not less than the following amounts or greater amounts where required by Laws and Regulations:

A.1 and A.2 Workers' Compensation, etc.

- | | | |
|-----|----------------------|-------------------------------|
| (1) | State | Statutory |
| (2) | Applicable Federal | Statutory |
| (3) | Employer's Liability | <u>\$ 600,000</u> each person |

A.3, A.4, and A.5. CONTRACTOR's Liability Insurance, which shall also include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of CONTRACTOR:

- | | | |
|-----|--|---------------------|
| (1) | General Aggregate
(Except Products-
Completed Operations) | <u>\$ 1,000,000</u> |
| (2) | Products - Completed
Operations Aggregate | <u>\$ 1,000,000</u> |
| (3) | Personal and Advertising
Injury (per person/
Organization) | <u>\$ 600,000</u> |
| (4) | Each Occurrence
(Bodily Injury and
Property Damage) | <u>\$ 600,000</u> |
| (5) | Property Damage Liability | |

Insurance Will Provide
Explosion, Collapse, and
Underground Coverages
Where Applicable.

(6) Excess Liability

General Aggregate **\$ 1,000,000**

Each Occurrence **\$ 600,000**

A.6 Automobile Liability:

(1) Bodily Injury:

Each person **\$ 600,000**

Each Accident **\$ 600,000**

Property Damage:

Each Accident **\$ 600,000**
or

(2) Combined Single
Limit (Bodily Injury
and Property Damage): **\$ 1,000,000**

B.1 Add “and B.3 Completed Operations Insurance“ after "A.6. inclusive“ in the first line of item B.1. The following are to be included as additional insureds on the CONTRACTOR’s Liability Insurance Policy:

OWNER: Town of Wellington
3735 Cleveland Avenue
PO Box 127
Wellington, CO 80549
Attn: Kelly Houghteling and Vincent Gentry

B.4 The contractual liability coverage required by paragraph 5.04.B.4. of the General Conditions shall provide coverage for not less than the following amounts. Greater amounts shall be provided where required by laws and regulations.

(1) General Aggregate **\$ 1,000,000**

(2) Each Occurrence
(Bodily Injury and
Property Damage) **\$ 600,000**

SC-5.06 *Property Insurance*. Delete Article 5.06.A. of the General Conditions in its entirety and insert the following:

“5.06 CONTRACTOR 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 required by Laws and Regulations). This insurance shall:

A.1 include the interests of OWNER, CONTRACTOR, SubCONTRACTORs, ENGINEER, ENGINEER's consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

A.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 and damage to the Work, temporary buildings, falsework and Work in transit and shall insure against at least the following perils: fire, lightning, hail, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Supplementary Conditions.

A.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);

A.4 cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and

A.5 be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued."

The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with this paragraph 5.06.A. shall comply with the requirements of paragraph C.

B. Delete Paragraph 5.06 B of the General Conditions.

E. Delete this subpart in its entirety and insert the following:

"E. If CONTRACTOR desires special insurance be included in the property insurance policies provided under paragraphs 5.06.A. or B., said coverages may be purchased at CONTRACTOR's expense. CONTRACTOR shall advise OWNER of said special insurance provisions."

SC-5.09 *Acceptance of Bonds and Insurance.* Delete in its entirety and substitute the following:

"If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by the CONTRACTOR in accordance with Article 5 on the basis of its not complying with the Contract Documents, OWNER will notify the CONTRACTOR in writing within 15 days of the date of delivery of such certificates to OWNER."

SC-6.05 *Substitutes or "Or-Equal".* Delete the words "approved" from all of paragraph and substitute the word "reviewed".

A. Delete the last sentence of 6.05.A. and add the following:

"Product Options Defined:

Products Specified by Reference Standards or by Description Only: Any product meeting

those standards.

Products Specified by Naming One or More Manufacturers: Products of named manufacturers meeting specifications. Submit request for substitution and "or equal" for any manufacturer not specifically named. Products of acceptable manufacturers are subject to requirements of specifications for specified product.

Products Specified by Naming One or More Manufacturers, No Substitutes: Products of named manufacturers meeting specifications; no options, no substitutions. Products of acceptable manufacturers are subject to requirements of specifications for specified product.”

A.2. Substitute Items

Add to subparagraph 2.a:

“A product is considered as a substitute if it involves a change in the requirements of the design or the physical requirements. The ENGINEER shall determine whether a product is a substitute or an "or equal". Requests for substitutions of products will be considered only in case of product unavailability, other conditions beyond control of CONTRACTOR, or if a benefit to OWNER.

Substitutions:

- (1) Will not be considered when indicated on Shop Drawings or Product Data submittals without separate formal request, when requested directly by SubCONTRACTOR or supplier, or when acceptance will require substantial revision of Contract Documents.
- (2) Do not order or install substitute products without written acceptance.
- (3) Only one request for substitution for each product will be considered. When substitution is not accepted, provide specified product.
- (4) ENGINEER will determine acceptability of substitutions.”

Add to 2.b.:

"Request for substitution

- (1) Submit two copies of each request. Submit separate request for each substitution.
- (2) Identify products by Specification Section and Article numbers.
- (3) Provide manufacturer's name and address, trade name of products, and model or catalog number.
- (4) List fabricators and suppliers as appropriate.
- (5) Document each request with complete data substantiating compliance of proposed substitution with requirements of Contract Documents:
 - Submit complete Shop Drawings as specified in Section 01340.
 - Give itemized comparison of proposed substitution with specified product, listing variation, and reference to specification section and article numbers.
 - Give quality and performance comparison between proposed substitution and specified product.
 - List availability of maintenance services and replacement materials.
 - State effect of substitution on construction schedule, and changes required in other work or products.”

Add to 2.d:

“CONTRACTOR Representation

(1) Request for review of Substitute and "or equal" products is a representation that CONTRACTOR has investigated proposed product and has determined that it is equal to or superior in all respects to specified product.

(2) CONTRACTOR will provide same warranty for substitute and "or equal" product as for specified product.

(3) CONTRACTOR will coordinate installation of accepted substitute and "or equal" product, making such changes as may be required for work to be complete in all respects.

(4) CONTRACTOR waives claims for additional costs related to substitute and "or equal" product which may later become apparent.

(5) If substituted and "or equal" products do not meet or exceed above requirements, whether before, during, or after incorporated into Work, CONTRACTOR shall, at no additional cost to OWNER, replace substituted and "or equal" products with products originally specified."

Add to C. *ENGINEER's Evaluation.*

"ENGINEER will review CONTRACTOR's requests for substitutions and "or equal" product with reasonable promptness. ENGINEER will not make exhaustive attempt to determine that products proposed for substitution and "or equal" are equal to, or can be modified in order to be equal to specified products."

SC-6.06 *Concerning Subcontracting Suppliers and Others:* Delete subparagraph B. and substitute the following:

"B. Each Bidder shall identify any subCONTRACTORs and suppliers identified and all subCONTRACTORs and all suppliers who will provide 5 percent or more of the cost of the project on a form following the Bid Form. OWNER may require that subCONTRACTORs and suppliers submit Statements of Qualifications. OWNER'S or ENGINEER'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) will constitute a condition of the contract requiring the use of the named subCONTRACTORs, suppliers or other persons or organization on the work and they may not be changed without the written acceptance of the OWNER. No acceptance by OWNER or ENGINEER of any subCONTRACTOR, supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective work."

C. Add the following language to the end of subparagraph C.:

"OWNER or ENGINEER may furnish to any subCONTRACTOR supplier or other person or organization evidence of amounts paid to CONTRACTOR in accordance with CONTRACTOR's Applications for Payment."

SC-6.10 *Taxes.* Delete in its entirety and substitute the following:

"A. OWNER is exempt from Colorado state and local sales and use taxes on materials to be permanently incorporated into the project. Said taxes shall not be included in the Contract Price. CONTRACTOR must apply for, and receive, a Certificate of Exemption from the Colorado Department of Revenue for construction materials to be physically

incorporated into the project. This Certification of Exemption provides that the CONTRACTOR shall neither pay nor include in his Bid, Sales and Use Taxes on those building and construction materials physically incorporated into the project.

Address: Colorado Department of Revenue
State Capital Annex
1375 Sherman Street
Denver, Colorado 80261

Sales and Use Taxes for the State of Colorado, Regional Transportation District (RTD) and certain Colorado counties are collected by the State of Colorado and are included in the Certification of Exemption. All applicable Sales and Use Taxes (including State collected taxes), on any items other than construction and building materials physically incorporated into the project are to be paid by CONTRACTOR and are to be included in appropriate bid items.”

SC-6.12 *Record Documents*

Delete the word "approved" from the text of paragraph and substitute in each place the work "reviewed".

Delete the last sentence of paragraph 6.12 of the General Conditions and substitute the following:

“Upon completion of the Work and prior to release of final payment, these recorded documents, Samples and Shop Drawings will be delivered to ENGINEER and OWNER.”

SC-6.13 *Safety & Protection.* Add the following:

“CONTRACTOR shall comply with the requirements of the versions of the International Fire Code adopted by the Town and the Wellington Fire District including permitting, notification, signage, material use and storage limitations, and inspections.”

SC-6.17 *Shop Drawings and Samples.* Delete the words "and approval" and “and approve” from the entire article. The ENGINEER will “review the shop drawings or sample as required by the General Requirements.”

SC-8.10 Delete paragraph 8.10 of the General Conditions.

SC-8.11 Delete paragraph 8.11 of the General Conditions.

SC-10.06 Add the following Paragraph 10.06 to Article 10 of the General Conditions:

“10.6 By the execution of a Change Order, a Work Change Directive, or Written Agreement, OWNER and CONTRACTOR expressly acknowledge and agree that said Change Order or Written Agreement provides for a fair and equitable adjustment in Contract Price and/or Contract Time for the additions, deletions, or revisions in the work as authorized by said Change Order, a Work Change Directive or Written Agreement. OWNER and CONTRACTOR further expressly acknowledge and agree that further claims for adjustments to the Contract Price and/or Contract Time covered by a Change Order, a Work Change Directive or Written Agreement are not valid.”

SC-11.01.A.1 *Cost of the Work.* Delete the words "and retirement", "bonuses, sick leave, vacation and holiday pay".

SC-13.07 *Correction Period.*

Paragraph A, delete: "one year" in the first sentence and insert "two (2) years".

Add: "During the two (2) year correction period the OWNER shall work directly with the CONTRACTOR and such work as is required to be corrected shall not be coordinated through the ENGINEER. Conversely, the CONTRACTOR shall work directly with the OWNER on correction work."

SC-14.02 *Documentation to Accompany Applications for Payment.* Add to A.1 "CONTRACTOR's Applications for Payment shall be accompanied by the documentation specified herein.

Materials and Equipment. If payment is requested for 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 Progress Payment shall be accompanied by such data, satisfactory to OWNER, as will establish OWNER's title to the material and equipment and protect the interest therein, including applicable insurance.

Payments for such materials and equipment shall be based only upon the actual cost of the materials and equipment to CONTRACTOR and shall not include any overhead or profit to CONTRACTOR. Retainage shall apply to such materials and equipment.

Receipts and Releases. Each Application for Payment shall include evidence as required in the General Conditions, that all previous progress payments received on account of the Work have been applied to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment. Each subsequent Applications for Payment shall include receipts or other evidence that previous progress payments received on account of the Work more than 30 days prior to the date of the current Application for Payment have been applied to discharge CONTRACTOR's obligations reflected in prior Applications for Payment. In lieu thereof, CONTRACTOR may furnish complete and legally effective release or waivers conforming to the format of OWNER's standard form of all liens that could arise out of the Contract Documents and the labor and services performed and the materials and equipment furnished thereunder. CONTRACTOR's Application for Substantial Completion shall also be accompanied by complete and legally effective releases or waivers of all liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder as required for Substantial Completion, reference Section 01700, Contract Closeout. Releases or waivers of liens are to be submitted on forms acceptable to OWNER.

Schedules and Data. Each Application for Progress Payment shall be accompanied by CONTRACTOR's updated progress schedule or progress report, with such Shop Drawings schedules, procurement schedules, and other data specified in Division 1 or reasonably required by ENGINEER.

Certificates. Each Application for Payment shall be accompanied by such certificates as may be required by governmental agencies."

Documentation to Accompany Final Application for Payment. Add to A.2.:
"CONTRACTOR's Application for Final Payment shall be accompanied by consent of the Surety to Final Payment. CONTRACTOR's Application for Final Payment shall also

be accompanied by complete and legally effective releases or waivers of all liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder. Releases or waivers of liens and the consent of the Surety to Final Payment are to be submitted on forms acceptable to OWNER. If releases or waivers were provided and accepted by OWNER for Substantial Completion they will not be required again for Final Completion."

C. Payment Becomes Due. Add to C.1:

"...subject to Paragraph 17.7.2 of the Supplementary Conditions."

SC-17 MISCELLANEOUS Add the following language to Article 17 of the General Conditions:

"17.05 The laws of the State of Colorado apply to this Agreement. Reference to two pertinent Colorado statutes are as follows:

A. Colorado Revised Statutes (CRS 8-17-101) requires that Colorado labor be employed to perform the work to the extent of not less than 80 percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on the project. Colorado labor means any person who is a bona fide resident of the State of Colorado at the time of employment, without discrimination as to race, color, creed, age, religion or sex.

B If a claim is filed, OWNER is required by law (CRS 38-26-107) to withhold from all payments to CONTRACTOR sufficient funds to insure the payment of all claims for labor, materials, team hire, substance, provisions, provender, or other supplies used or consumed by CONTRACTOR or his subCONTRACTORS in or about the performance of the work. Such funds must be withheld until said claims have been paid or such claims as filed have been withdrawn, such payment or withdrawn to be evidenced by filing with OWNER a receipt in full or an order for withdrawal in writing and signed by the person filing such a claim or his duly authorized agents or assigns. Such funds shall not be withheld longer than ninety (90) days following the date fixed for final settlement, as published in a public newspaper in accordance with the law, unless an action is commenced within that time to enforce such unpaid claim and a notice of lis pendens is filed with the OWNER. At the expiration of such ninety (90) day period, OWNER shall pay to CONTRACTOR such moneys and funds as are not the subject of suit and lis pendens notices, and shall retain only sufficient funds to insure the payment of judgements which may result from the suit.

17.06 Forms. CONTRACTOR shall be required to use forms included in these Contract Documents and where not so included forms that are acceptable to OWNER and ENGINEER."

END OF SECTION

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 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 Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

Copyright © 2007 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

The copyright for this EJCDC document is owned jointly by the four
EJCDC sponsoring organizations and held in trust for their benefit by NSPE.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1 – Definitions and Terminology	1
1.01 Defined Terms.....	1
1.02 Terminology	5
Article 2 – Preliminary Matters	6
2.01 Delivery of Bonds and Evidence of Insurance.....	6
2.02 Copies of Documents.....	6
2.03 Commencement of Contract Times; Notice to Proceed	6
2.04 Starting the Work	7
2.05 Before Starting Construction	7
2.06 Preconstruction Conference; Designation of Authorized Representatives	7
2.07 Initial Acceptance of Schedules	7
Article 3 – Contract Documents: Intent, Amending, Reuse	8
3.01 Intent.....	8
3.02 Reference Standards	8
3.03 Reporting and Resolving Discrepancies	8
3.04 Amending and Supplementing Contract Documents	9
3.05 Reuse of Documents	10
3.06 Electronic Data.....	10
Article 4 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions; Reference Points	10
4.01 Availability of Lands	10
4.02 Subsurface and Physical Conditions	11
4.03 Differing Subsurface or Physical Conditions.....	11
4.04 Underground Facilities	13
4.05 Reference Points	14
4.06 Hazardous Environmental Condition at Site.....	14
Article 5 – Bonds and Insurance	16
5.01 Performance, Payment, and Other Bonds	16
5.02 Licensed Sureties and Insurers	16
5.03 Certificates of Insurance	16
5.04 Contractor’s Insurance.....	17
5.05 Owner’s Liability Insurance	18
5.06 Property Insurance	18
5.07 Waiver of Rights	20
5.08 Receipt and Application of Insurance Proceeds	21
5.09 Acceptance of Bonds and Insurance; Option to Replace.....	21

5.10	Partial Utilization, Acknowledgment of Property Insurer	21
Article 6 – Contractor’s Responsibilities		22
6.01	Supervision and Superintendence	22
6.02	Labor; Working Hours.....	22
6.03	Services, Materials, and Equipment	22
6.04	Progress Schedule	23
6.05	Substitutes and “Or-Equals”	23
6.06	Concerning Subcontractors, Suppliers, and Others	25
6.07	Patent Fees and Royalties	26
6.08	Permits.....	27
6.09	Laws and Regulations	27
6.10	Taxes	28
6.11	Use of Site and Other Areas	28
6.12	Record Documents.....	29
6.13	Safety and Protection	29
6.14	Safety Representative	30
6.15	Hazard Communication Programs	30
6.16	Emergencies	30
6.17	Shop Drawings and Samples	30
6.18	Continuing the Work	32
6.19	Contractor’s General Warranty and Guarantee.....	32
6.20	Indemnification	33
6.21	Delegation of Professional Design Services	34
Article 7 – Other Work at the Site.....		34
7.01	Related Work at Site	34
7.02	Coordination.....	35
7.03	Legal Relationships.....	35
Article 8 – Owner’s Responsibilities		36
8.01	Communications to Contractor.....	36
8.02	Replacement of Engineer.....	36
8.03	Furnish Data	36
8.04	Pay When Due	36
8.05	Lands and Easements; Reports and Tests	36
8.06	Insurance	36
8.07	Change Orders.....	36
8.08	Inspections, Tests, and Approvals	36
8.09	Limitations on Owner’s Responsibilities	36
8.10	Undisclosed Hazardous Environmental Condition.....	37
8.11	Evidence of Financial Arrangements	37
8.12	Compliance with Safety Program.....	37
Article 9 – Engineer’s Status During Construction		37
9.01	Owner’s Representative.....	37
9.02	Visits to Site	37
9.03	Project Representative	38

9.04	Authorized Variations in Work	38
9.05	Rejecting Defective Work	38
9.06	Shop Drawings, Change Orders and Payments	38
9.07	Determinations for Unit Price Work	38
9.08	Decisions on Requirements of Contract Documents and Acceptability of Work	39
9.09	Limitations on Engineer's Authority and Responsibilities.....	39
9.10	Compliance with Safety Program.....	40
Article 10 –	Changes in the Work; Claims	40
10.01	Authorized Changes in the Work	40
10.02	Unauthorized Changes in the Work	40
10.03	Execution of Change Orders.....	40
10.04	Notification to Surety.....	41
10.05	Claims.....	41
Article 11 –	Cost of the Work; Allowances; Unit Price Work.....	42
11.01	Cost of the Work	42
11.02	Allowances	44
11.03	Unit Price Work	45
Article 12 –	Change of Contract Price; Change of Contract Times.....	45
12.01	Change of Contract Price.....	45
12.02	Change of Contract Times	47
12.03	Delays.....	47
Article 13 –	Tests and Inspections; Correction, Removal or Acceptance of Defective Work.....	48
13.01	Notice of Defects	48
13.02	Access to Work	48
13.03	Tests and Inspections	48
13.04	Uncovering Work.....	49
13.05	Owner May Stop the Work.....	49
13.06	Correction or Removal of Defective Work.....	49
13.07	Correction Period.....	50
13.08	Acceptance of Defective Work	51
13.09	Owner May Correct Defective Work.....	51
Article 14 –	Payments to Contractor and Completion.....	52
14.01	Schedule of Values	52
14.02	Progress Payments	52
14.03	Contractor's Warranty of Title	54
14.04	Substantial Completion.....	55
14.05	Partial Utilization	55
14.06	Final Inspection.....	56
14.07	Final Payment	56
14.08	Final Completion Delayed.....	57
14.09	Waiver of Claims	58

Article 15 – Suspension of Work and Termination	58
15.01 Owner May Suspend Work	58
15.02 Owner May Terminate for Cause	58
15.03 Owner May Terminate For Convenience.....	59
15.04 Contractor May Stop Work or Terminate	60
Article 16 – Dispute Resolution	60
16.01 Methods and Procedures.....	60
Article 17 – Miscellaneous.....	61
17.01 Giving Notice.....	61
17.02 Computation of Times	61
17.03 Cumulative Remedies	61
17.04 Survival of Obligations.....	61
17.05 Controlling Law	61
17.06 Headings.....	61

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

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

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

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

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

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

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

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

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

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

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

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

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

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

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
 2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

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

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

4.01 *Availability of Lands*

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

Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

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

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

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

C. *Possible Price and Times Adjustments*:

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

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

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to

permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

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

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:
 - 1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners,

employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of

them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

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

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

5.07 *Waiver of Rights*

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

5.08 *Receipt and Application of Insurance Proceeds*

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

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

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

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

6.02 *Labor; Working Hours*

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

6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

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

2. *Substitute Items:*

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

- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- 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 create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner

and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

A. Limitation on Use of Site and Other Areas:

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

- 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 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 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. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts

any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

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

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.

- b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.
- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Submittal Procedures:*

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

D. *Engineer's Review:*

- 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
- 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the

Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

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

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe

access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

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

7.03 *Legal Relationships*

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

ARTICLE 8 – OWNER’S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws

and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations

on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

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

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of,

and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

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

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of

executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

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

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:*
1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in

the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee*: The Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

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

12.03 *Delays*

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

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

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

13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers,

architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. Applications for Payments:

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

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's

review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

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

14.03 Contractor's Warranty of Title

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

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and

- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. Engineer's Review of Application and Acceptance:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

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

14.08 Final Completion Delayed

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

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

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

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
3. Contractor's repeated disregard of the authority of Engineer; or
4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other

dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

2. agrees with the other party to submit the Claim to another dispute resolution process; or
3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

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

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

BID FORM

TO: Town of Wellington, Colorado

PROJECT: 2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT

Date:

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Contract Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. The undersigned bidder does hereby declare and stipulate that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to all the terms and conditions of the Invitation to Bid and Instructions to Bidders, the Agreement, the detailed Specifications, and the Plans pertaining to the work to be done, all of which have been examined by the undersigned.
3. Accompanying this bid is a certified or cashier's check or standard bid bond in the sum of Five Percent (\$ 5%) in accordance with the Invitation to Bid and Instructions to Bidders.
4. The undersigned bidder agrees to execute the contract and a Performance Bond and a Payment Bond for the amount of the total of this bid within fifteen (15) calendar days from the date when the written notice of the award of the contract is delivered to him at the address given on this bid. The name and address of the corporate surety with which the bidder proposes to furnish the specified bonds is as follows:
Contractors Bonding and Insurance Company, 9025 N Lindbergh Dr, Peoria, IL 61615
5. All the various phases of work enumerated in the Contract Documents with their individual jobs and overhead, whether specifically mentioned included by implication or appurtenant thereto, are to be performed by the CONTRACTOR under one of the items listed in the Bid, irrespective of whether it is named in said list.
6. Payment for work performed will be in accordance with the Bid subject to changes as provided in the Contract Documents.
7. The undersigned bidder hereby acknowledges Addenda No. 1 through 3.
8. Bidder agrees that the Work shall be substantially completed and shall be completed and ready for Final Payment in accordance with the Conditions of the Contract on or before the dates or within the number of calendar days indicated in the Agreement.

Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

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

Section 00410, Bid Security
Section 00420, Statement of Bidder's Qualifications

10. BID SCHEDULE

Bidder will complete the work in accordance with the Contract Documents for Unit Price Base Bid and total price as listed below.

2020 Old Town Street Repairs - Concrete															
Date	April 28, 2020		Base Bid									Additional Alternate Bid			
Item No.	Description	Units	Unit Cost	Ruffian and Mammoth	Viewpoint and Adams	3rd St	4th St and Cleveland	4th St and Grant	5th and Grant	6th and Grant	Contract Quantities	Base Bid Total	Harrison and 3rd	Kit Fox and Adams	Additional Alternate Bid Total
	Number of Blocks			1	1	1	1	2	2	3	11		1	1	2
	Number of Pedestrian Access Ramp Per Street			2	2	2	0	3	4	0	13			0	20
1	Mobilization	LS		9%	9%	9%	9%	18%	18%	27%	1		9%	9%	18%
2	Aggregate Base Course	TON		10	20	30	40	70	30	10	210		20	20	40
3	Crossspan - 8" Remove & Replace with 6-ft wide pan	SF		290	510	240	220	410	230	0	1900		0	300	300
4	Driveover Curb, Gutter & 6" Sidewalk - Remove & Replace (up to 5' wide)	LF		0	0	200	300	440	160	0	1100		180	0	180
5	Driveover Curb, Gutter, No Sidewalk - Remove & Replace	LF		Please see attached bid schedule on following page									20	100	120
6	Driveover Curb, Gutter, No Sidewalk - New	LF		0	0	0	0	0	0	0	0		0	0	0
7	Tail Rollover Curb, Gutter and Sidewalk Remove and Replace	LF		0	0	0	0	0	0	0	0		0	0	0
8	2-ft valley pan	SF		0	0	0	0	0	0	0	0		0	0	0
9	Riprap Apron	SY		0	0	0	0	0	0	0	0		0	0	0
10	Barrier Curb	LF		0	0	0	0	0	0	0	0		0	0	0
11	Pedestrian Access Ramp - Remove & Replace	SF		150	430	140	0	110	250	0	1080		60	320	380
12	Wet Set Metal Truncated Dome Panel	SF		16	16	16	0	24	32	0	104		8	16	24
13	Alley Approach 8" - Remove & Replace (up to 5' wide)	SF		0	0	0	50	90	50	0	190		0	0	0
14	5' Detached Walk	SF		0	170	0	50	0	0	0	220		0	0	0
15	Inlet box top	SF		0	0	0	0	0	0	50	50		0	0	0
16	Traffic Control	LS		9%	9%	9%	9%	18%	18%	27%	100%		9%	9%	0
Base Bid Amount													Additional Alternate Bid Amount		
													Total Bid Amount		

Total Bid Written out

One Hundred forty-four thousand, five hundred ninety-nine _____ Dollars

And _____ cents

Total Bid \$ \$144,599.00

2020 Old Town Street Repairs - Concrete																	
Date				Base Bid								Additional Alternate Bid					
Item No.	Description	Units	Unit Cost	Ruffian and Mammoth	Viewpoint and Adams	3rd St	4th St and Cleveland	4th St and Grant	5th and Grant	6th and Grant	Contract Quantities	Base Bid Total	Harrison and 3rd	Kit Fox and Adams	Additional Contract Quantities	Additional Alternate Bid Total	
	Number of Blocks			1	1	1	1	2	2	3	11		1	1	2		
	Number of Pedestrian Access Ramp Per			2	2	2	0	3	4	0	13		2	1	3		
1	Mobilization	LS	\$5,000.00	9%	9%	9%	9%	18%	18%	27%	100%	\$ 5,000.00	9%	9%	18%	\$ 909	
2	Aggregate Base Course	TON	\$39.00	10	20	30	40	70	30	10	210	\$ 8,190.00	20	20	40	\$ 1,560	
3	Crosspan - 8" Remove & Replace with 6-ft wide pan	SF	\$11.00	290	510	240	220	410	230	0	1900	\$ 20,900.00	0	300	300	\$ 3,300	
4	Driveover Curb, Gutter & 6" Sidewalk - Remove & Replace (up to 5' wide)	LF	\$58.00	0	0	200	300	440	160	0	1100	\$ 63,800.00	180	0	180	\$ 10,440	
5	Driveover Curb, Gutter, No Sidewalk - Remove & Replace	LF	\$33.30	50	100	80	0	150	90	20	490	\$ 16,317.00	20	100	120	\$ 3,996	
6	Driveover Curb, Gutter, No Sidewalk - New	LF		0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -	
7	Tall Rollover Curb, Gutter and Sidewalk Remove and Replace	LF		0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -	
8	2-ft valley pan	SF		0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -	
9	Riprap Apron	SY		0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -	
10	Barrier Curb	LF		0	0	0	0	0	0	0	0	\$ -	0	0	0	\$ -	
11	Pedestrian Access Ramp - Remove & Replace	SF	\$10.90	150	430	140	0	110	250	0	1080	\$ 11,772.00	60	320	380	\$ 4,142	
12	Wet Set Metal Truncated Dome Panel	SF	\$30.00	16	16	16	0	24	32	0	104	\$ 3,120.00	8	16	24	\$ 720	
13	Alley Approach 8" - Remove & Replace (up to 5' wide)	SF	\$12.00	0	0	0	50	90	50	0	190	\$ 2,280.00	0	0	0	\$ -	
14	5' Detached Walk	SF	\$9.00	0	170	0	50	0	0	0	220	\$ 1,980.00	0	0	0	\$ -	
15	Inlet box top	SF	\$59.00	0	0	0	0	0	0	50	50	\$ 2,950.00	0	0	0	\$ -	
16	Traffic Control	LS	\$8,250.00	9%	9%	9%	9%	18%	18%	27%	100%	\$ 8,250.00	9%	9%	18%	\$ 1,500	
Base Bid Amount												\$ 144,559.00	Additional Bid Amount				\$ 26,567
													Total Bid Amount				\$ 171,126

12. PRICES

The foregoing prices shall include all labor, materials, transportation, shoring, removal, dewatering, overhead, profit, insurance, etc., to cover the complete work in place of the several kinds called for in the Contract Documents.

Respectfully submitted,

CONTRACTOR

By Lucia D. Lightfield

Title President

Signature

6/19/20

Date

ADDRESS

2600 Midpoint Drive

Fort Collins, CO 80525

Telephone

970-484-3880

Attest

Title

Signature

Date 6/19/20

Address 2600 Midpoint Drive

Fort Collins, CO 80525

(Seal - if bid is by a corporation)

END OF BID FORM

THIS PAGE INTENTIONALLY LEFT BLANK.

SECTION 00410

BID BOND

KNOW ALL MEN BY THESE PRESENTS: that we, the undersigned Lightfield Enterprise, Inc. as Principal, and Contractors Bonding and Insurance Company as Surety, are hereby held and firmly bound unto the Town of Wellington, as OWNER, in the sum of \$ five percent of bid for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

THE CONDITION of this obligation is such that whereas the Principal has submitted to the Town of Wellington the accompanying Bid and hereby made a part hereof to enter into a Construction Agreement for the construction of 2020 Town of Wellington roads concrete repairs.

NOW THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a Contract in the form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said Contract, and for payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void; otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals this 1st day of Dec, 2020, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

PRINCIPAL

Name: Lightfield Enterprise, Inc.

Address: 2600 Midpoint Dr., Fort Collins, CO 80525

By: [Signature]

Title: President

SURETY

Contractors Bonding and Insurance Company

Address: 9025 N. Lindbergh Dr., Peoria, IL 61615

By: [Signature]

Title: Attorney-in-fact

ATTEST:

By: [Signature]
(SEAL)

[Signature]
(SEAL)

NOTE: Surety Companies executing bonds must be authorized to transact business in the State of Colorado and be accepted by the OWNER.

END OF BID BOND

POWER OF ATTORNEY

RLI Insurance Company Contractors Bonding and Insurance Company

9025 N. Lindbergh Dr. Peoria, IL 61615
Phone: 800-645-2402

Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That **RLI Insurance Company** and/or **Contractors Bonding and Insurance Company**, each an Illinois corporation, (separately and together, the "Company") do hereby make, constitute and appoint:

W.R. Withrow, Megan A. Brown, Laurie Lewis, Renee Dameron, Don Berndt, Greg Harmon, William Phelps, Brad Henderson, Nick Vuolo, jointly or severally

in the City of Castle Rock, State of Colorado its true and lawful Agent(s) and Attorney(s) in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, in general, any and all bonds and undertakings in an amount not to exceed Twenty Five Million Dollars (\$25,000,000.00) for any single obligation.

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon the Company as if such bond had been executed and acknowledged by the regularly elected officers of the Company.

RLI Insurance Company and/or **Contractors Bonding and Insurance Company**, as applicable, have each further certified that the following is a true and exact copy of a Resolution adopted by the Board of Directors of each such corporation, and is now in force, to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the **RLI Insurance Company** and/or **Contractors Bonding and Insurance Company**, as applicable, have caused these presents to be executed by its respective Vice President with its corporate seal affixed this 2nd day of April, 2020.

RLI Insurance Company
Contractors Bonding and Insurance Company

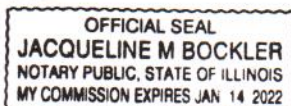
By: B. W. Davis
Barton W. Davis Vice President

State of Illinois
County of Peoria

} SS

On this 2nd day of April, 2020, before me, a Notary Public, personally appeared Barton W. Davis, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the **RLI Insurance Company** and/or **Contractors Bonding and Insurance Company** and acknowledged said instrument to be the voluntary act and deed of said corporation.

By: Jacqueline M. Bockler
Jacqueline M. Bockler Notary Public



CERTIFICATE

I, the undersigned officer of **RLI Insurance Company** and/or **Contractors Bonding and Insurance Company**, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the **RLI Insurance Company** and/or **Contractors Bonding and Insurance Company** this 19th day of June, 2020.

RLI Insurance Company
Contractors Bonding and Insurance Company

By: Jeffrey D. Fick
Jeffrey D. Fick Corporate Secretary

THIS PAGE INTENTIONALLY LEFT BLANK.

STATEMENT OF BIDDER'S QUALIFICATIONS

1. Name of Bidder: Lightfield Enterprises, Inc.
2. Permanent main office address: 2600 Midpoint Drive, Fort Collins, CO
80525
3. When organized: 1978 (Formerly Vogel Concrete)
4. If a corporation, where incorporated: Co Lorado
5. How many years have you been engaged in the contracting business under your present firm or trade name? 5 Years
6. Contracts on hand: (Schedule these, showing amount of each contract and the anticipated dates of completion.) List the location and type of construction, name of your superintendent on the project, Owner and Engineer for each project with contact persons for each the Owner and the Engineer with their telephone numbers where each may be contacted.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

8. Have you ever failed to complete any work awarded to you? No

If so, where and why? _____

9. Have you ever defaulted on a contract? No

If so, where and why? _____

have you ever had any project terminated by the Owner? No

If so, where and why? _____

10. List the more important projects recently completed by your company, stating the approximate cost of each, the month and year completed, location and type of construction, name of your superintendent on the project, owner and engineer for each project with the telephone numbers where each may be contacted. Do not list projects that are listed under 6 above.

Please refer to Attachment 2: listing of projects recently completed.

-
11. List your major equipment available for this contract.

Skid steer loaders, mini excavator, hydraulic breakers, dump
trucks, pick-up trucks, form material trucks, traffic control
equipment

12. Experience in construction work similar in scope to this project. For projects completed in the last five years list the same information as is requested for item 10 above.
- All projects listed in items 6 & 10 are similar in scope to
this project.
13. Background and experience of the principal members of your organization, including officers.
- Please refer to Attachment 3: Lightfield Enterprises, Inc.
Company Brochure
14. Credit available. \$ 15,000,000
15. Bank reference. List the Bank name, Contact person, and telephone number:
Western States Bank, Mike Brown, (970) 449-5635
16. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? Yes
17. Are you licensed as an excavator, pipeline constructor or any other title? If yes, in what city, county, or state?
- No
- What class, license and numbers? _____
18. What percent of total contract price do you anticipate subcontracting work under this contract? 0%
- list type of work subcontracted _____
19. Are you involved in any lawsuits or are any lawsuits pending at the present time? No
- If yes, give the details _____

20. What are the limits of your public liability? One Million Dollars
21. What are your company's bonding limitations? Seven Million Dollars
22. Name of proposed Superintendent for this project. Said person shall be required in the project unless agreed upon otherwise in writing by Owner.
- Chad Ronning

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recital comprising this Statement of Bidder's Qualifications. The undersigned further agrees that they will not bring suit in a court of law for any information that is furnished to Owner in good faith by said parties or persons responding to Owner's requests for information concerning Bidder's qualifications.

Dated this 16th day of June, 2020.

Lightfield Enterprises, Inc.
Name of Bidder

By: Lucia D. Lightfield

Title: President

State of Colorado

County of Larimer

Lucia Lightfield being duly sworn deposes and says

that he or she is President

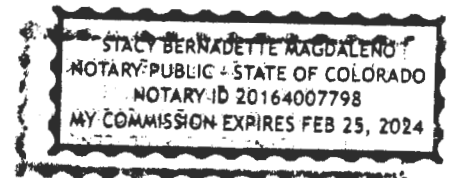
of Lightfield Enterprises, Inc.
(Name of organization)

and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this 19th day of June, 2020.

My commission expires 02/25/2024

Stacy Magdaleno
Notary Public



END OF SECTION



2020 Town of Wellington Concrete Roads Repair Project Statement of Qualifications

Contracts on Hand

Project Name	Cost	Scheduled Completion Date	Location	Type of Construction	Superintendent	Owner	Owner Representative	Phone No.	Engineer	Phone No.
City of Fort Collins SMP Phase 1	\$1,951,843.68	12/31/2020	Fort Collins	Concrete Rheab		City of Fort Collins	Elliot Dale	970-221-6775	Tom Knostman	970-221-6615
City of Fort Collins SMP Phase 2	\$1,072,059.86	12/31/2020	Fort Collins	Concrete Rheab		City of Fort Collins	Elliot Dale	970-221-6775	Tom Knostman	970-221-6615
				Citywide miscellaneous						
City of Fort Collins Misc Concrete	\$730,654.80	12/31/2020	Fort Collins	concrete repairs		City of Fort Collins	Elliot Dale	970-221-6775	Varies by department	

Recently Completed Contracts

Project Name	Cost	Month/Year Completed	Location	Type of Construction	Superintendent	Owner	Owner Representative	Phone No.	Engineer	Phone No.
City of Fort Collins SMP Phase 1	\$1,993,446.45	12/31/2019	Fort Collins	Concrete Rehab		City of Fort Collins	Elliot Dale	970-221-6775	Tom Knostman	970-221-6615
City of Fort Collins SMP Phase 2	\$2,039,669.83	12/31/2019	Fort Collins	Concrete Rehab		City of Fort Collins	Elliot Dale	970-221-6776	Tom Knostman	970-221-6616
				Citywide miscellaneous						
City of Fort Collins Misc Concrete	\$701,765.50	12/31/2019	Fort Collins	concrete repairs		City of Fort Collins	Elliot Dale	970-221-6777	Varies by department	



2020 Town of Wellington Road Concrete Repair Project

Subcontractor and Supplier Listing

Suppliers & Subcontractors	Product or Service	Percent of Work
Martin Meriatta Matrerials	Concrete & Aggregate	25%
HD Supply Company	Concrete Accessories	10%



Concrete Demolition • Flatwork • Traffic Control

Woman Owned
Minority Owned
Veteran Owned



(970) 484-3880 • (970) 416-6230 (f)
www.LightfieldEnterprises.com



Our Company

Since 1978, Vogel Concrete (now, Lightfield Enterprises) has operated with one simple idea in mind – make everything we do the very best we possibly can. Today, more than 35 years later, this tradition still holds true. It is what made Vogel the leading concrete company in Fort Collins, Colorado.

In 2014, Lightfield Enterprises, Inc. acquired Vogel Concrete. We continue to keep the same great traditions of Vogel alive by providing the same great service all over Fort Collins and the northern front range, whether that be in concrete construction or traffic control services.

With Lightfield Enterprises, you can count on a quality job at an affordable price, completed in a timely manner. We pride ourselves on craftsmanship and superior service. This holds true whether we are replacing the curb & gutters or sidewalks in your neighborhood, pouring a new driveway or parking lot, re-routing or directing traffic, or any of the other many services we provide. Simply put, quality craftsmanship and great service are an integral part of our business philosophy.



Our Services

Lightfield Enterprises provides services in the areas of:

- **Concrete Services** – Governmental • Municipalities • Commercial • Residential • Schools
 - ✓ ADA Ramps
 - ✓ Carports & Driveways
 - ✓ Colored Concrete
 - ✓ Commercial Floors
 - ✓ (large & small)
 - ✓ Courtyards
 - ✓ Curb & Gutters
 - ✓ Demolition & Rehab
 - ✓ FF / FL Slabs
 - ✓ Fire Pits
 - ✓ Foundations
 - ✓ Foundation Excavations & Grading
 - ✓ Front Steps & Porches
 - ✓ Pathways
 - ✓ Parking Lots
 - ✓ Playgrounds & Picnic Areas
 - ✓ Sidewalks
 - ✓ Storm Water Inlets
- **Traffic Control Services** – Governmental • Municipalities • Commercial
- **Snow Removal Services** – Governmental • Municipalities • Commercial



Concrete Services



Traffic Control Services



Snow Removal Services

Our Project Samples

For more than 35 years, Lightfield Enterprises has set the standard for concrete construction. Photos from some of our projects include:



FF / FL Slab Project



Post Tension Slab Project



Commercial Concrete Project



Concrete Paving Project



Municipal – Curb & Gutter Project



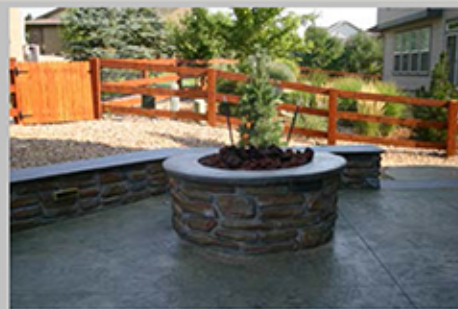
Commercial Concrete – Finishing



Municipal Concrete – Curb & Sidewalk



High School – Colored Concrete



Stamped Patio/Fireplace Project

35+ Years of Excellence!!

Our Leadership Team



Lucia Lightfield
President

Lightfield Enterprises, Inc. is a small, woman-owned, minority business. **Lucia Lightfield**, President and majority owner, is Hispanic and originates from Mexico. Now a United States citizen, Ms. Lightfield holds a master's degree in Human Resources Development and a bachelor's degree in Public Relations (summa cum laude honors). She is a strong leader and actively involved in business strategy and the many human resource issues that face a concrete services and traffic control company.



Keith Lightfield
Exec Vice President

Keith Lightfield, Executive Vice President, holds an MBA degree from the University of Denver and a compound BS degree in Accounting/Business Administration (magna cum laude honors). He has more than 35 years' experience in business. Most recently, Mr. Lightfield was a board member and Executive Vice President/CFO for a closely-held software company, where they developed and supported an enterprise accounting and job cost system (ERP) for large construction companies and contractors.

Chris Hansen, General Manager of Operations, has a broad background in construction. Mr. Hansen grew up in a multi-generation family that owned various construction companies. Most recently, he was a Construction Inspector for the City of Fort Collins, Street Maintenance Program. There he provided technical support for design build projects, coordinated scheduling and communications amongst contractors, reviewed and updated contracts/specifications, inspected work for asphalt and concrete rehab projects, and more... Mr. Hansen is a valuable member of the management team at Lightfield Enterprises.



Chris Hansen
General Mgr,
Operations



Chad Ronning
Superintendent,
Concrete Services

Chad Ronning, Superintendent of Concrete Services, has nearly 25 years experience in a variety of areas of concrete construction management. Over the years, Mr. Ronning has given freely of himself – managing crews, pitching in on projects when short-handed and called upon, following up with the appropriate paperwork, and much more... He knows our business, and Lightfield Enterprises is fortunate to have such a dedicated employee and member of the management team.

Tim Wheatley, Manager of Traffic Control Services, has more than 15 years' experience in traffic control, construction, oilfield services, and project management. Over the years, Mr. Wheatley has worked in all areas of traffic control and brings a lot of experience and expertise to Lightfield Enterprises.



Tim Wheatley
Manager,
Traffic Control Services

Endorsements

Lightfield Enterprises takes great pride in our commitment to providing a high-quality product in a professional and ethical manner. Our craftsmanship and the service we offer incorporate the values of both ownership and management, as evidenced by some of the comments our customers are making.

In August 2014, I hired Vogel Concrete, now Lightfield Enterprises, to fix, or should I say replace, my cracked driveway and front stoop. They did a great job and their workmen were all outstandingly polite. They listened to my concerns and addressed them. I felt important to them and respected. The driveway and the stoop still look fantastic. People even noticed how nice they looked. I really cannot imagine a better experience with a concrete company.
- Demi Wood



Lightfield's personnel were a pleasure to work with. Great communication skills, and an even better product. I will not hesitate to hire them again.
- Mark V.

The City of Fort Collins hired Lightfield Enterprises to replace damaged curb and sidewalk in our neighborhood in March 2015. I hired Lightfield to replace the roll curb with a driveway approach and decided their work estimate so good that I also had the driveway replaced because of extensive cracks and settlement. Their crew was fast, efficient, courteous. The result is an excellent, new driveway and driveway approach. Their follow-up was highly responsive. Neighbors were truly impressed by the quality of their work, as well. It was a great experience working with these folks.
-Dan McGlothlin



Lightfield Enterprises replaced my concrete driveway and did an excellent job. The process, from the estimate to completion was prompt, efficient, meticulous, and professional. My neighbors are all commenting on how nice of a job they did. I had a tint added to the concrete making it more attractive than drab gray which other concrete contractors were not able to offer me. I couldn't be more pleased.
- Carol Reed

I hired Lightfield to replace a small area of walk in front of my house. I am a general contractor by trade. My expectations are higher than most customers, and they did a great job. They provided removal, prep of the subgrade, including bringing in some materials, and then formed, placed, and finished the walk. The cost was reasonable, especially considering the small amount of work. Thank you.
- John Sinnett

Lightfield Enterprises replaced our driveway, including the approach. Within a couple of months, the surface started to flake off. To their credit, Lightfield Enterprises replaced our entire driveway at no cost. Alan Brewer was especially helpful and made it possible to have the situation corrected. We are impressed with the integrity of the company as were our neighbors. Their follow up was exceptional. Despite the issues we experienced with our concrete, which happens sometimes, we would not hesitate to use the company again.
- Rick and Colleen Hoffman

www.LightfieldEnterprises.com
(970) 484-3880

SECTION 00520

AGREEMENT

THIS AGREEMENT is dated as of the ___ day of July in the year of 2020. The Town of Wellington (hereinafter called OWNER) and Lightfield Enterprise, Inc. (hereinafter called CONTRACTOR), in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

CONTRACTOR shall complete all work as specified or indicated in the Contract Documents. The work under the Contract Documents is generally described as the **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT** or part thereof as defined in the Notice of Award.

ARTICLE 2. ENGINEER

The Project has been designed by the Town of Wellington who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

3.1 The Work will be substantially completed on or before Friday September 11, 2020 and completed and ready for final payment in accordance with paragraph 14.07 of the General conditions on or before Friday September 18, 2020.

3.2 Early completion and time extensions.

OWNER explicitly states that the time stated in the agreement for Substantial Completion has been considered in respect to OWNER's use of the facilities. An early completion time shall not entitle CONTRACTOR to additional monies should events, construction, or any other events not allow CONTRACTOR to complete work in accordance with an accelerated construction schedule.

Float or slack time in the schedule is for the exclusive use of OWNER and at no additional cost to the OWNER. CONTRACTOR acknowledges and agrees that delays in activities which do not in fact actually affect the date or time of contract completion, or any milestone completion dates listed in the contract, will not be the basis for a change. Extensions of time will be granted only to the extent that an activity or activities effect exceeds the total float or slack along the channels involved at the time notice to proceed was used for the change.

3.3 Liquidated Damages

OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$ 500 for each day that expires after the date specified above for Substantial Completion for each Schedule until the

Work is substantially complete, (but not to be additive if more than one Schedule is not complete at the same time). After Substantial Completion if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the time specified for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$ 500 for each day that expires after the time specified for completion and readiness for final payment for each Schedule, (but not to be additive if more than one Schedule is not complete at the same time).

The foregoing liquidated damages pertain solely to OWNER's costs and not to damages claimed against the OWNER or CONTRACTOR by any other third party. CONTRACTOR is responsible for third party damages.

ARTICLE 4. CONTRACT PRICE

4.1. OWNER shall pay CONTRACTOR for performance of the work in accordance with the CONTRACT DOCUMENTS in current funds as follows: One hundred forty-four thousand, five hundred ninety-nine Dollars and zero cents. (\$144,599.00), in accordance with the Bid Form, Section 00300 and the Notice of Award, Section 00580, attached.

ARTICLE 5. PAYMENT PROCEDURES

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

5.1. PROGRESS PAYMENTS. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Application for Payment as recommended by ENGINEER, once each month during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed).

5.1.1 RETAINAGE. Retainage from progress payments shall be withheld as stated below. Owner OWNER shall retain from progress payments, until payment is due under the terms and conditions governing final payments, amounts as follows:

Retention of 5 percent of payments authorized until the Work is 50 percent complete.

After the Work is 50 percent complete, no further retainage shall be withheld from subsequent progress payment unless, in the opinion of the ENGINEER, satisfactory progress is not being made. When the Work is 50 percent complete and, in the opinion of the ENGINEER, satisfactory progress is not being made retainage may continue to be withheld at 10 percent of payments. At any time after the Work is 50 percent complete and, in the opinion of the ENGINEER, satisfactory progress is not being made retainage may be reinstated to 5 percent of the total amount of all progress payments.

After the Work is substantially complete the retained amount will continue to be 5 percent of the total Contract Price until Final Completion.

5.2. FINAL PAYMENT. Upon final completion and acceptance of the work in accordance with the General Conditions and the Supplementary Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER.

ARTICLE 6. CONTRACTOR'S REPRESENTATION

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

6.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, work, site, locality, and with all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the work.

6.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in the General Conditions.

6.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies (in addition to or to supplement those referred to above) which pertain to the subsurface or physical condition at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as CONTRACTOR considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provision of the General Conditions.

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

6.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

ARTICLE 7. CONTRACT DOCUMENTS

7.1 The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR concerning the work consisting of the following documents:

- 7.1.1 This Agreement (0520)
- 7.1.2 Construction Performance Bond (0610)
- 7.1.3 Construction Payment Bond (0615)
- 7.1.4 Notice of Award (0580)
- 7.1.5 Notice to Proceed (0590)

- 7.1.6 General Conditions (C-700)
- 7.1.7 Supplementary Conditions (0800)
- 7.1.8 Consent of Surety Form (0660)
- 7.1.9 Certificates of Insurance (0630)
- 7.1.10 Certificate of Substantial Completion (0635)
- 7.1.11 Certificate of Final Acceptance (0640)
- 7.1.12 Lien Waiver Release (Contractor) (0650)
- 7.1.13 Lien Waiver Releases (Subcontractors) (0651)
- 7.1.14 Application of Exemption Certificate
- 7.1.15 Application for Payment
- 7.1.16 Technical specifications as listed in Table of Contents.
- 7.1.17 Addenda Numbers **1** to **3**, inclusive.
- 7.1.18 Contractor's Bid.
- 7.1.19 Documentation submitted by Contractor prior to Notice of Award.
- 7.1.20 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All written amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.
- 7.1.21 The documents listed in this Article 7 are attached to this Agreement (except as expressly noted otherwise above).
- 7.1.22 Prohibition Against Employing Illegal Aliens (0600)

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

7.2. All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

ARTICLE 8. MISCELLANEOUS

8.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and

specifically but not without limitations, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge that assignor from any duty or responsibility under the Contract Documents.

8.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreement and obligations contained in the Contract Documents.

8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.5 Special provision relating to contract interpretation. The parties hereto agree that in the event it becomes necessary to determine the meaning, scope or interrelationship of any of the provisions of this contract, the doctrine of contra proferentum, that is that the contract documents shall be construed against the OWNER, shall not be used. On the contrary, the standard for interpretation dictates that the meaning of a questionable contract passage is that which a reasonably intelligent person acquainted with all operative usages and knowing all the facts and circumstances of the contract prior to and contemporaneously with the making of the contract would assign to it.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in four counterparts. Two counterparts have been delivered to CONTRACTOR who shall deliver one counterpart to the Surety and one counterpart delivered to OWNER and one counterpart has been retained by ENGINEER.

This Agreement will be effective on _____, 20___. (Which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

Town of Wellington

By Kelly Houghteling

By _____

Signature

Signature

Title Interim Town Administrator

Title _____

(CORPORATE SEAL)

Attest _____

Attest _____

Address for giving notices:

Telephone

Address for giving notices

Telephone

END OF AGREEMENT

SECTION 00580

NOTICE OF AWARD

July 7, 2020

TO: Lightfield Enterprise, Inc.

Address: 2600 Midpoint Dr., Fort Collins, CO. 80525

Project: **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT**

The Town of Wellington, Colorado (hereinafter called "the OWNER") has considered the bids submitted for referenced work in response to its Advertisement for Bids.

You are hereby notified that your Bid dated June 19, 2020 has been considered. You are the apparent Successful Bidder and have been awarded a contract for the work (or part there of as described as follows): Concrete curb, gutter, and sidewalk on nine (9) town blocks and two (2) intersections with one (1) intersection and one (1) block as an add alternate within the Old Town portion of Wellington and indicated in the construction drawings:

- Ruffian Way and Mammoth Circle (1 intersection)
- Viewpointe Drive and Adams Drive (1 intersection)
- 3rd Street (Wilson to Henderson) (1 block)
- 4th Street (Cleveland to Harrison) (1 block)
- 4th Street (Grant to Wilson) (2 blocks)
- 5th Street (Hays to Grant) (1 block)
- 6th Street (Harrison to Grant) (3 blocks)
- Adams Court and Kit Fox Drive (1 intersection) (add alternate)
- Harrison Avenue and 3rd Street (1 block) (add alternate)

The Contract Price of your contract is One hundred forty-four thousand, five hundred ninety-nine Dollars and zero cents. (\$144,599.00)

2 copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

2 sets of the Drawings will be delivered separately or otherwise made available to you immediately.

1. You must deliver to the OWNER 2 fully executed counterparts of the Agreement including all the Contract Documents, this includes the Drawings.
2. You must deliver with the executed Agreement the Contract Security (bonds) as specified in the General Conditions and Supplementary Conditions.

Failure to comply with these conditions within the time specified will entitle OWNER to consider your bid in default, to annul this Notice of Award and to declare your Bid Security forfeited.

OWNER will return to you **1** fully signed counterpart of the Agreement with the Contract Documents attached.

By: _____

Title: **Interim Town Administrator**

ACCEPTANCE OF AWARD

By: _____

Title: _____

Date: _____

END OF SECTION

SECTION 00590

NOTICE TO PROCEED

Dated _____

TO: _____

Address: _____

Project: **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT**

You are notified that the Contract Times under the above contract will commence to run on _____, 20____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement, the date of Substantial Completion is _____ and the date for completion and readiness for final payment is _____

Before you may start any Work at the site, you and OWNER must each deliver to the other (with copies to ENGINEER and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

OWNER: _____

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Contractor: _____

By: _____

Title: _____

Date: _____

END OF SECTION

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 00600

PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

This paragraph shall apply to all Contractors whose performance of work under this Agreement does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor represents and agrees that:

1. As of the date of this Agreement:
 - a. Contractor does not knowingly employ or contract with an illegal alien; and
 - b. Contractor has participated or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the “Basic Pilot Program”) in order to confirm the employment eligibility of all newly hired employees.
2. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement.
3. Contractor shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Contractor is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.
4. Contractor is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:
 - a. Notify such subcontractor and the Town within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the “Department”) made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

7. If Contractor violates a provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Agreement. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of Contractor's violation of Subsection 8-17.5-102, C.R.S.
8. The Town will notify the Office of the Secretary of State if Contractor violates this provision of this Agreement and the Town terminates the Agreement for such breach.

END OF SECTION

Construction Performance Bond

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

CONTRACTOR (Name and address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

The Town of Wellington

3735 Cleveland Avenue

PO Box 127

Wellington, CO 80549

ATTN: Bob Gowing, Public Works Director

Telephone: 970-568-0447

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location): **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT**, Wellington,
Colorado, Larimer County.

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: (Corp. Seal)

Signature: _____

Name and Title:

1. Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the contractor and the Surety agree, the contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right if any, subsequently to declare a Contractor Default; and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contracts; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the Contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and , as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract. to the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damage on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default; and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner of the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to

the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

- 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY - Name, Address and Telephone)
AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

(THIS PAGE INTENTIONALLY LEFT BLANK)

Construction Payment Bond

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

CONTRACTOR (Name and address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

The Town of Wellington

3735 Cleveland Avenue

PO Box 127

Wellington, CO 80549

ATTN: Bob Gowling, Public Works Director

Telephone: 970-568-0447

CONSTRUCTION CONTRACT

Date:

Amount: _____

Description (Name and Location): **2020 TOWN OF WELLINGTON ROAD ASPHALT REPAIR PROJECT**, Wellington, Colorado,
Larimer County.

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form: interest at the rate of eight percent (8%) per annum will be paid on all payments becoming due.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

1. Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:

- 2.1 Promptly makes payment, directly or indirectly, for all sums due claimants, and
- 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

- 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 4.2 Claimants who do not have a direct contract with the Contractor:
 - 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were finished or supplied or for whom the labor was done or performed; and
 - 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 - 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

- 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for

challenging any amounts that are disputed.

- 6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under his Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were finished by anyone under the Construction Contract, whichever of (1) or (2) occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be acceptable.

12. Notice to the Surety, the Owner of the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

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

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions.

- 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of

the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY - Name, Address and Telephone)
AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 00630

CERTIFICATE OF INSURANCE

Contractor shall insert his own standard form for Certificate of Insurance.

SECTION 00635

CERTIFICATION OF SUBSTANTIAL COMPLETION

TO: **The Town of Wellington** (OWNER)

DATE OF SUBSTANTIAL COMPLETION: PROJECT TITLE:

**2020 TOWN OF WELLINGTON ROAD
CONCRETE REPAIR PROJECT**

PROJECT OR SPECIFIED PART SHALL
INCLUDE:

LOCATION: Town of Wellington, CO

The Town of Wellington,

CONTRACTOR: _____

CONTRACT DATE: _____

The Work performed under this contract has been inspected by authorized representatives of the OWNER, CONTRACTOR, and the ENGINEER and the project (or specified part of the project, as indicated above) is hereby declared to be substantially completed on the above date.

A tentative list of items to be completed or corrected is appended hereto. This list may not be exhaustive, and the failure to include an item on it does not alter the responsibility of the CONTRACTOR to complete all the Work in accordance with the Contract Documents.

ENGINEER By: _____
The CONTRACTOR accepts the above Certificate of Substantial Completion and agrees to complete and correct the items on the tentative list within the time indicated.

CONTRACTOR By: _____
The OWNER accepts the project or specified area of the project as substantially complete and will assume full possession of the project or specified area of the project at 12:01 a.m., on _____. The responsibility for heat, utilities, security, and insurance under the Contract Documents shall be set forth under "Remarks" below.

The Town of Wellington By: _____
REMARKS: AUTHORIZED REPRESENTATIVE DATE

SECTION 00640

CERTIFICATE OF FINAL ACCEPTANCE

_____, 20__

TO: _____

Gentlemen:

You are hereby notified that on the ____ day of _____, 20____, the **Town of Wellington**, Colorado, has accepted the Work completed by _____ for the project, **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT**. A check is attached hereto in the amount of \$ _____ as Final Payment for all Work done, subject to the terms of the Contract Documents which are dated: _____

In conformance with the Contract Documents for this project, your obligations and guarantees will continue for the specified time from the following date: _____.

Sincerely,

OWNER: **The Town of Wellington**

By:

Title:

ATTEST:

Title:

SECTION 00650

LIEN WAIVER RELEASE
(Contractor)

TO: **The Town of Wellington**
(hereinafter referred to as "Owner").

FROM: _____

PROJECT: That portion of **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT** described as follows: _____

1. The undersigned does hereby release all claims, Mechanic's Liens Rights, Miller Act Claims (40 USCA 270), Stop Notice, Equitable Liens and Labor and Material Bond Rights resulting from labor and/or materials, subcontract work, equipment or other work, rents, services or supplies heretofore furnished in and for the construction, design, improvement, alteration, additions to or repair of the above described project.
2. This release is given for and in consideration of the sum of \$_____ and other good and valuable consideration. If no dollar consideration is herein recited, it is acknowledged that other adequate consideration has been received by the undersigned for this release.
3. The undersigned agrees to defend and hold harmless the Owner, lender, if any, and Surety from any claim or claims hereinafter made by the undersigned or its Suppliers, Subcontractors or employees, servants, agents or assigns of such persons against the Project. The undersigned agrees to indemnify or reimburse all persons so relying upon this release for any and all sums, including attorney's fees and costs, which may be incurred as the result of any such claims.
4. It is acknowledged that the designation of the above Project constitutes an adequate description of the property and improvements for which the undersigned has received consideration for this release.
5. It is further warranted and represented that all such claims against the undersigned or the undersigned's Subcontractors or Suppliers have been paid or that arrangements, satisfactory to the Owner, have been made for such payments.
6. It is acknowledged that this release is for the benefit of and may be relied upon by the Owner, the lender, if any, and the principal and Surety on any labor and material bond for the Project.
7. In addition to the foregoing, this instrument shall constitute a *******(full, final and complete)*******(partial) release of all rights, claims and demands of the undersigned against the Contractor arising out of or pertaining to the above referenced project. If partial, all rights and claims on the project are released up to and including the ____ day of _____ 20____.

Dated this _____ day of _____, 20_____.

FIRM _____
Name of firm or person giving release

By

Title

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing release was subscribed and sworn to before me this ____ day of _____, 20____ by
_____ (as _____ of _____).

NOTARY PUBLIC

My commission expires: _____.

SECTION 00651

LIEN WAIVER RELEASE
(Sub-Contractor)

TO: **The Town of Wellington**
(hereinafter referred to as "Owner").

FROM: _____

PROJECT: That portion of **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT** described as follows: _____

1. The undersigned does hereby release all claims, Mechanic's Liens Rights, Miller Act Claims (40 USCA 270), Stop Notice, Equitable Liens and Labor and Material Bond Rights resulting from labor and/or materials, subcontract work, equipment or other work, rents, services or supplies heretofore furnished in and for the construction, design, improvement, alteration, additions to or repair of the above described project.
2. This release is given for and in consideration of the sum of \$_____ and other good and valuable consideration. If no dollar consideration is herein recited, it is acknowledged that other adequate consideration has been received by the undersigned for this release.
3. The undersigned agrees to defend and hold harmless the Owner, lender, if any, and Surety from any claim or claims hereinafter made by the undersigned or its Suppliers, Subcontractors or employees, servants, agents or assigns of such persons against the Project. The undersigned agrees to indemnify or reimburse all persons so relying upon this release for any and all sums, including attorney's fees and costs, which may be incurred as the result of any such claims.
4. It is acknowledged that the designation of the above Project constitutes an adequate description of the property and improvements for which the undersigned has received consideration for this release.
5. It is further warranted and represented that all such claims against the undersigned or the undersigned's Subcontractors or Suppliers have been paid or that arrangements, satisfactory to the Owner, have been made for such payments.
6. It is acknowledged that this release is for the benefit of and may be relied upon by the Owner, the lender, if any, and the principal and Surety on any labor and material bond for the Project.
7. In addition to the foregoing, this instrument shall constitute a *******(full, final and complete)*******(partial) release of all rights, claims and demands of the undersigned against the Contractor arising out of or pertaining to the above referenced project. If partial, all rights and claims on the project are released up to and including the ____ day of _____ 20____.

Dated this _____ day of _____, 20_____.

FIRM _____
Name of firm or person giving release

By

Title

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing release was subscribed and sworn to before me this ____ day of _____, 20____ by
_____ (as _____ of _____).

NOTARY PUBLIC

My commission expires: _____.

SECTION 00660

CONSENT OF SURETY

TO: **The Town of Wellington**
(hereinafter referred to as "OWNER").

CONTRACTOR: _____

PROJECT: **2020 TOWN OF WELLINGTON ROAD CONCRETE REPAIR PROJECT**

CONTRACT DATE: _____

In accordance with the provisions of the Contract between OWNER and CONTRACTOR as indicated above,
for _____ on bond of (Surety) _____

Hereby approves of the final payment to CONTRACTOR, and agrees that final payment to CONTRACTOR shall not relieve the Surety company of any of its obligations to OWNER, as set forth in the said Surety company's Bond.

IN WITNESS WHEREOF, the surety Company has hereunto to set its hand this _____ day of _____, 20____.

(Surety Company)

By _____

ATTACH: Power of Attorney and Certificate of Authority of Attorney(s)-in-Fact.

SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (1910-8, 2007 edition) as indicated below. All provisions not so amended, supplemented or modified remain in full force and effect.

SC-1.01 The following information is applicable to Article 1 – Definitions and Terminology. The terms used in these Supplementary Conditions which are defined in the General Conditions have the meanings assigned to them in the General Conditions, unless a modification of that definition is made herein.

Add the following definitions to paragraph 1.01:

Legal Holidays - those days observed as holidays by the Town/OWNER.

Regular Working Hours - hours defined as 7:00 a.m. to 6:00 p.m. unless otherwise specified in the General Requirements.

Reviewed - Shop Drawings that have been marked by ENGINEER, "No Exceptions Taken".

Town, TOWN, or OWNER – The Town of Wellington, Colorado.

Add the following language to Paragraph 1.01.A.19 of the General Conditions:

“The ENGINEER shall mean the Town of Wellington Engineering Department, attn Vincent Gentry

SC-2.03 Delete the last sentence of Paragraph 2.03 of the General Conditions.

SC-2.05 *Before Starting Construction:*

Add the following language to item A.2 of the General Conditions:

“In no case will a schedule be acceptable which allows less than 14 calendar days for each review by ENGINEER and its subconsultants.”

Add paragraph 2.05.B to the of the General Conditions:

“B. *Evidence of Insurance:* Before any work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to the ENGINEER, certificates (and other evidence of insurance requested by the OWNER) which CONTRACTOR is required to purchase and maintain in accordance with Article 5.”

SC-2.07 *Initial acceptance of schedules:* Delete the first sentence of paragraph 2.06 of the General Conditions and substitute the following:

“Unless otherwise provided in the Contract Documents, before work begins a conference attended by CONTRACTOR, ENGINEER, and others as designated by OWNER will be held to review for acceptability to ENGINEER the schedules submitted in accordance with the Conditions of the Contract and Division 1, General Requirements.”

SC-3.04 *Amending and Supplementing Contract Documents.* In paragraph B.2. of the General Conditions, delete the word "approval" and substitute in its place the word "review".

SC-4.01 *Availability of Lands:* Delete subparagraph B.

SC-4.02 *Subsurface and Physical Conditions:*

None

SC-4.03 *Differing subsurface or physical conditions:* Delete the paragraph following subpart A.4 of the General Conditions in its entirety and insert the following:

“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 permitted by paragraph 6.16), notify OWNER and ENGINEER about such condition. CONTRACTOR shall document the changed condition and in writing advise OWNER and ENGINEER of changes that CONTRACTOR believes should be made in the operation of the project due to such conditions. CONTRACTOR shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until an agreement can be reached on the course of action. Said course of action shall be transmitted to CONTRACTOR in writing.”

SC-4.04 *Underground Facilities.*

In paragraph A.2.b of the General Conditions., delete the words shown or indicated in the Contract Documents.

Delete subpart B. of paragraph 4.04 of the General Conditions in its entirety and insert the following:

“B. *Not Shown or Indicated:* If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents during construction and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated, CONTRACTOR shall promptly after becoming aware thereof (except in an emergency as required by paragraph 6.16), identify the OWNER of such Underground Facility and give 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 of the Underground Facility. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document such consequences. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.13. CONTRACTOR may be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or the amount or length of any such adjustment in Contract Price or Contract Times, CONTRACTOR may make a claim therefor as provided in Article 12. However, OWNER, ENGINEER and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses or damages incurred or sustained by CONTRACTOR on or in connection with any other project or anticipated project.”

SC-4.06 *Hazardous Environmental Condition at Site.*

Delete the first two sentences of Paragraph 4.06 B of the General Conditions and in Paragraph 4.06B of the General Conditions delete:

“Except for such reliance on such “technical data”.

Delete supports E, F, and G under this paragraph.

SC-5.01 *Performance, Payment and Other Bonds.* Add the following sentence to paragraph 5.1 of the General Conditions:

“All Bonds must be countersigned by an agent who is a resident of the State of Colorado and must be accompanied by a certified copy of the authority to act for the Surety and authority to transact business in the State of Colorado.”

SC 5.03 *Conditions of Insurance.* In paragraph B delete the word “with’ in the first sentence, “ Owner shall deliver to Contractor, ~~with~~ copies ...”

SC-5.04 *CONTRACTOR’s Liability Insurance.* The limits of liability for the insurance required by Article 5.04 of the General Conditions shall provide the following coverages for not less than the following amounts or greater amounts where required by Laws and Regulations:

A.1 and A.2 Workers' Compensation, etc.

- | | | |
|-----|----------------------|-------------------------------|
| (1) | State | Statutory |
| (2) | Applicable Federal | Statutory |
| (3) | Employer's Liability | <u>\$ 600,000</u> each person |

A.3, A.4, and A.5. CONTRACTOR's Liability Insurance, which shall also include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of CONTRACTOR:

- | | | |
|-----|--|---------------------|
| (1) | General Aggregate
(Except Products-
Completed Operations) | <u>\$ 1,000,000</u> |
| (2) | Products - Completed
Operations Aggregate | <u>\$ 1,000,000</u> |
| (3) | Personal and Advertising
Injury (per person/
Organization) | <u>\$ 600,000</u> |
| (4) | Each Occurrence
(Bodily Injury and
Property Damage) | <u>\$ 600,000</u> |
| (5) | Property Damage Liability | |

Insurance Will Provide
Explosion, Collapse, and
Underground Coverages
Where Applicable.

(6) Excess Liability

General Aggregate **\$ 1,000,000**

Each Occurrence **\$ 600,000**

A.6 Automobile Liability:

(1) Bodily Injury:

Each person **\$ 600,000**

Each Accident **\$ 600,000**

Property Damage:

Each Accident **\$ 600,000**
or

(2) Combined Single
Limit (Bodily Injury
and Property Damage): **\$ 1,000,000**

B.1 Add “and B.3 Completed Operations Insurance“ after "A.6. inclusive“ in the first line of item B.1. The following are to be included as additional insureds on the CONTRACTOR’s Liability Insurance Policy:

OWNER: Town of Wellington
3735 Cleveland Avenue
PO Box 127
Wellington, CO 80549
Attn: Kelly Houghteling and Vincent Gentry

B.4 The contractual liability coverage required by paragraph 5.04.B.4. of the General Conditions shall provide coverage for not less than the following amounts. Greater amounts shall be provided where required by laws and regulations.

(1) General Aggregate **\$ 1,000,000**

(2) Each Occurrence
(Bodily Injury and
Property Damage) **\$ 600,000**

SC-5.06 *Property Insurance*. Delete Article 5.06.A. of the General Conditions in its entirety and insert the following:

“5.06 CONTRACTOR 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 required by Laws and Regulations). This insurance shall:

A.1 include the interests of OWNER, CONTRACTOR, SubCONTRACTORs, ENGINEER, ENGINEER's consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

A.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 and damage to the Work, temporary buildings, falsework and Work in transit and shall insure against at least the following perils: fire, lightning, hail, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Supplementary Conditions.

A.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);

A.4 cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and

A.5 be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued."

The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with this paragraph 5.06.A. shall comply with the requirements of paragraph C.

B. Delete Paragraph 5.06 B of the General Conditions.

E. Delete this subpart in its entirety and insert the following:

"E. If CONTRACTOR desires special insurance be included in the property insurance policies provided under paragraphs 5.06.A. or B., said coverages may be purchased at CONTRACTOR's expense. CONTRACTOR shall advise OWNER of said special insurance provisions."

SC-5.09 *Acceptance of Bonds and Insurance.* Delete in its entirety and substitute the following:

"If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by the CONTRACTOR in accordance with Article 5 on the basis of its not complying with the Contract Documents, OWNER will notify the CONTRACTOR in writing within 15 days of the date of delivery of such certificates to OWNER."

SC-6.05 *Substitutes or "Or-Equal"*. Delete the words "approved" from all of paragraph and substitute the word "reviewed".

A. Delete the last sentence of 6.05.A. and add the following:

"Product Options Defined:

Products Specified by Reference Standards or by Description Only: Any product meeting

those standards.

Products Specified by Naming One or More Manufacturers: Products of named manufacturers meeting specifications. Submit request for substitution and "or equal" for any manufacturer not specifically named. Products of acceptable manufacturers are subject to requirements of specifications for specified product.

Products Specified by Naming One or More Manufacturers, No Substitutes: Products of named manufacturers meeting specifications; no options, no substitutions. Products of acceptable manufacturers are subject to requirements of specifications for specified product.”

A.2. Substitute Items

Add to subparagraph 2.a:

“A product is considered as a substitute if it involves a change in the requirements of the design or the physical requirements. The ENGINEER shall determine whether a product is a substitute or an "or equal". Requests for substitutions of products will be considered only in case of product unavailability, other conditions beyond control of CONTRACTOR, or if a benefit to OWNER.

Substitutions:

- (1) Will not be considered when indicated on Shop Drawings or Product Data submittals without separate formal request, when requested directly by SubCONTRACTOR or supplier, or when acceptance will require substantial revision of Contract Documents.
- (2) Do not order or install substitute products without written acceptance.
- (3) Only one request for substitution for each product will be considered. When substitution is not accepted, provide specified product.
- (4) ENGINEER will determine acceptability of substitutions.”

Add to 2.b.:

"Request for substitution

- (1) Submit two copies of each request. Submit separate request for each substitution.
- (2) Identify products by Specification Section and Article numbers.
- (3) Provide manufacturer's name and address, trade name of products, and model or catalog number.
- (4) List fabricators and suppliers as appropriate.
- (5) Document each request with complete data substantiating compliance of proposed substitution with requirements of Contract Documents:
 - Submit complete Shop Drawings as specified in Section 01340.
 - Give itemized comparison of proposed substitution with specified product, listing variation, and reference to specification section and article numbers.
 - Give quality and performance comparison between proposed substitution and specified product.
 - List availability of maintenance services and replacement materials.
 - State effect of substitution on construction schedule, and changes required in other work or products.”

Add to 2.d:

“CONTRACTOR Representation

(1) Request for review of Substitute and "or equal" products is a representation that CONTRACTOR has investigated proposed product and has determined that it is equal to or superior in all respects to specified product.

(2) CONTRACTOR will provide same warranty for substitute and "or equal" product as for specified product.

(3) CONTRACTOR will coordinate installation of accepted substitute and "or equal" product, making such changes as may be required for work to be complete in all respects.

(4) CONTRACTOR waives claims for additional costs related to substitute and "or equal" product which may later become apparent.

(5) If substituted and "or equal" products do not meet or exceed above requirements, whether before, during, or after incorporated into Work, CONTRACTOR shall, at no additional cost to OWNER, replace substituted and "or equal" products with products originally specified."

Add to C. *ENGINEER's Evaluation.*

"ENGINEER will review CONTRACTOR's requests for substitutions and "or equal" product with reasonable promptness. ENGINEER will not make exhaustive attempt to determine that products proposed for substitution and "or equal" are equal to, or can be modified in order to be equal to specified products."

SC-6.06 *Concerning Subcontracting Suppliers and Others:* Delete subparagraph B. and substitute the following:

"B. Each Bidder shall identify any subCONTRACTORS and suppliers identified and all subCONTRACTORS and all suppliers who will provide 5 percent or more of the cost of the project on a form following the Bid Form. OWNER may require that subCONTRACTORS and suppliers submit Statements of Qualifications. OWNER'S or ENGINEER'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) will constitute a condition of the contract requiring the use of the named subCONTRACTORS, suppliers or other persons or organization on the work and they may not be changed without the written acceptance of the OWNER. No acceptance by OWNER or ENGINEER of any subCONTRACTOR, supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective work."

C. Add the following language to the end of subparagraph C.:

"OWNER or ENGINEER may furnish to any subCONTRACTOR supplier or other person or organization evidence of amounts paid to CONTRACTOR in accordance with CONTRACTOR's Applications for Payment."

SC-6.10 *Taxes.* Delete in its entirety and substitute the following:

"A. OWNER is exempt from Colorado state and local sales and use taxes on materials to be permanently incorporated into the project. Said taxes shall not be included in the Contract Price. CONTRACTOR must apply for, and receive, a Certificate of Exemption from the Colorado Department of Revenue for construction materials to be physically

incorporated into the project. This Certification of Exemption provides that the CONTRACTOR shall neither pay nor include in his Bid, Sales and Use Taxes on those building and construction materials physically incorporated into the project.

Address: Colorado Department of Revenue
State Capital Annex
1375 Sherman Street
Denver, Colorado 80261

Sales and Use Taxes for the State of Colorado, Regional Transportation District (RTD) and certain Colorado counties are collected by the State of Colorado and are included in the Certification of Exemption. All applicable Sales and Use Taxes (including State collected taxes), on any items other than construction and building materials physically incorporated into the project are to be paid by CONTRACTOR and are to be included in appropriate bid items.”

SC-6.12 *Record Documents*

Delete the word "approved" from the text of paragraph and substitute in each place the work "reviewed".

Delete the last sentence of paragraph 6.12 of the General Conditions and substitute the following:

“Upon completion of the Work and prior to release of final payment, these recorded documents, Samples and Shop Drawings will be delivered to ENGINEER and OWNER.”

SC-6.13 *Safety & Protection.* Add the following:

“CONTRACTOR shall comply with the requirements of the versions of the International Fire Code adopted by the Town and the Wellington Fire District including permitting, notification, signage, material use and storage limitations, and inspections.”

SC-6.17 *Shop Drawings and Samples.* Delete the words "and approval" and “and approve” from the entire article. The ENGINEER will “review the shop drawings or sample as required by the General Requirements.”

SC-8.10 Delete paragraph 8.10 of the General Conditions.

SC-8.11 Delete paragraph 8.11 of the General Conditions.

SC-10.06 Add the following Paragraph 10.06 to Article 10 of the General Conditions:

“10.6 By the execution of a Change Order, a Work Change Directive, or Written Agreement, OWNER and CONTRACTOR expressly acknowledge and agree that said Change Order or Written Agreement provides for a fair and equitable adjustment in Contract Price and/or Contract Time for the additions, deletions, or revisions in the work as authorized by said Change Order, a Work Change Directive or Written Agreement. OWNER and CONTRACTOR further expressly acknowledge and agree that further claims for adjustments to the Contract Price and/or Contract Time covered by a Change Order, a Work Change Directive or Written Agreement are not valid.”

SC-11.01.A.1 *Cost of the Work.* Delete the words "and retirement", "bonuses, sick leave, vacation and holiday pay".

SC-13.07 *Correction Period.*

Paragraph A, delete: "one year" in the first sentence and insert "two (2) years".

Add: "During the two (2) year correction period the OWNER shall work directly with the CONTRACTOR and such work as is required to be corrected shall not be coordinated through the ENGINEER. Conversely, the CONTRACTOR shall work directly with the OWNER on correction work."

SC-14.02 *Documentation to Accompany Applications for Payment.* Add to A.1 "CONTRACTOR's Applications for Payment shall be accompanied by the documentation specified herein.

Materials and Equipment. If payment is requested for 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 Progress Payment shall be accompanied by such data, satisfactory to OWNER, as will establish OWNER's title to the material and equipment and protect the interest therein, including applicable insurance.

Payments for such materials and equipment shall be based only upon the actual cost of the materials and equipment to CONTRACTOR and shall not include any overhead or profit to CONTRACTOR. Retainage shall apply to such materials and equipment.

Receipts and Releases. Each Application for Payment shall include evidence as required in the General Conditions, that all previous progress payments received on account of the Work have been applied to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment. Each subsequent Applications for Payment shall include receipts or other evidence that previous progress payments received on account of the Work more than 30 days prior to the date of the current Application for Payment have been applied to discharge CONTRACTOR's obligations reflected in prior Applications for Payment. In lieu thereof, CONTRACTOR may furnish complete and legally effective release or waivers conforming to the format of OWNER's standard form of all liens that could arise out of the Contract Documents and the labor and services performed and the materials and equipment furnished thereunder. CONTRACTOR's Application for Substantial Completion shall also be accompanied by complete and legally effective releases or waivers of all liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder as required for Substantial Completion, reference Section 01700, Contract Closeout. Releases or waivers of liens are to be submitted on forms acceptable to OWNER.

Schedules and Data. Each Application for Progress Payment shall be accompanied by CONTRACTOR's updated progress schedule or progress report, with such Shop Drawings schedules, procurement schedules, and other data specified in Division 1 or reasonably required by ENGINEER.

Certificates. Each Application for Payment shall be accompanied by such certificates as may be required by governmental agencies."

Documentation to Accompany Final Application for Payment. Add to A.2.:
"CONTRACTOR's Application for Final Payment shall be accompanied by consent of the Surety to Final Payment. CONTRACTOR's Application for Final Payment shall also

be accompanied by complete and legally effective releases or waivers of all liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder. Releases or waivers of liens and the consent of the Surety to Final Payment are to be submitted on forms acceptable to OWNER. If releases or waivers were provided and accepted by OWNER for Substantial Completion they will not be required again for Final Completion."

C. Payment Becomes Due. Add to C.1:

"...subject to Paragraph 17.7.2 of the Supplementary Conditions."

SC-17 MISCELLANEOUS Add the following language to Article 17 of the General Conditions:

"17.05 The laws of the State of Colorado apply to this Agreement. Reference to two pertinent Colorado statutes are as follows:

A. Colorado Revised Statutes (CRS 8-17-101) requires that Colorado labor be employed to perform the work to the extent of not less than 80 percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on the project. Colorado labor means any person who is a bona fide resident of the State of Colorado at the time of employment, without discrimination as to race, color, creed, age, religion or sex.

B If a claim is filed, OWNER is required by law (CRS 38-26-107) to withhold from all payments to CONTRACTOR sufficient funds to insure the payment of all claims for labor, materials, team hire, substance, provisions, provender, or other supplies used or consumed by CONTRACTOR or his subCONTRACTORS in or about the performance of the work. Such funds must be withheld until said claims have been paid or such claims as filed have been withdrawn, such payment or withdrawn to be evidenced by filing with OWNER a receipt in full or an order for withdrawal in writing and signed by the person filing such a claim or his duly authorized agents or assigns. Such funds shall not be withheld longer than ninety (90) days following the date fixed for final settlement, as published in a public newspaper in accordance with the law, unless an action is commenced within that time to enforce such unpaid claim and a notice of lis pendens is filed with the OWNER. At the expiration of such ninety (90) day period, OWNER shall pay to CONTRACTOR such moneys and funds as are not the subject of suit and lis pendens notices, and shall retain only sufficient funds to insure the payment of judgements which may result from the suit.

17.06 Forms. CONTRACTOR shall be required to use forms included in these Contract Documents and where not so included forms that are acceptable to OWNER and ENGINEER."

END OF SECTION

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 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 Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

Copyright © 2007 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

The copyright for this EJCDC document is owned jointly by the four
EJCDC sponsoring organizations and held in trust for their benefit by NSPE.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1 – Definitions and Terminology	1
1.01 Defined Terms.....	1
1.02 Terminology	5
Article 2 – Preliminary Matters	6
2.01 Delivery of Bonds and Evidence of Insurance.....	6
2.02 Copies of Documents.....	6
2.03 Commencement of Contract Times; Notice to Proceed	6
2.04 Starting the Work.....	7
2.05 Before Starting Construction	7
2.06 Preconstruction Conference; Designation of Authorized Representatives	7
2.07 Initial Acceptance of Schedules	7
Article 3 – Contract Documents: Intent, Amending, Reuse	8
3.01 Intent.....	8
3.02 Reference Standards	8
3.03 Reporting and Resolving Discrepancies	8
3.04 Amending and Supplementing Contract Documents	9
3.05 Reuse of Documents	10
3.06 Electronic Data.....	10
Article 4 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions; Reference Points	10
4.01 Availability of Lands	10
4.02 Subsurface and Physical Conditions	11
4.03 Differing Subsurface or Physical Conditions.....	11
4.04 Underground Facilities	13
4.05 Reference Points	14
4.06 Hazardous Environmental Condition at Site.....	14
Article 5 – Bonds and Insurance	16
5.01 Performance, Payment, and Other Bonds	16
5.02 Licensed Sureties and Insurers	16
5.03 Certificates of Insurance	16
5.04 Contractor’s Insurance.....	17
5.05 Owner’s Liability Insurance	18
5.06 Property Insurance	18
5.07 Waiver of Rights	20
5.08 Receipt and Application of Insurance Proceeds	21
5.09 Acceptance of Bonds and Insurance; Option to Replace.....	21

5.10	Partial Utilization, Acknowledgment of Property Insurer	21
Article 6 – Contractor’s Responsibilities		22
6.01	Supervision and Superintendence	22
6.02	Labor; Working Hours.....	22
6.03	Services, Materials, and Equipment	22
6.04	Progress Schedule	23
6.05	Substitutes and “Or-Equals”	23
6.06	Concerning Subcontractors, Suppliers, and Others	25
6.07	Patent Fees and Royalties	26
6.08	Permits.....	27
6.09	Laws and Regulations	27
6.10	Taxes	28
6.11	Use of Site and Other Areas	28
6.12	Record Documents.....	29
6.13	Safety and Protection	29
6.14	Safety Representative	30
6.15	Hazard Communication Programs	30
6.16	Emergencies	30
6.17	Shop Drawings and Samples	30
6.18	Continuing the Work	32
6.19	Contractor’s General Warranty and Guarantee.....	32
6.20	Indemnification	33
6.21	Delegation of Professional Design Services	34
Article 7 – Other Work at the Site.....		34
7.01	Related Work at Site	34
7.02	Coordination.....	35
7.03	Legal Relationships.....	35
Article 8 – Owner’s Responsibilities		36
8.01	Communications to Contractor.....	36
8.02	Replacement of Engineer.....	36
8.03	Furnish Data	36
8.04	Pay When Due	36
8.05	Lands and Easements; Reports and Tests	36
8.06	Insurance	36
8.07	Change Orders.....	36
8.08	Inspections, Tests, and Approvals	36
8.09	Limitations on Owner’s Responsibilities	36
8.10	Undisclosed Hazardous Environmental Condition.....	37
8.11	Evidence of Financial Arrangements	37
8.12	Compliance with Safety Program.....	37
Article 9 – Engineer’s Status During Construction		37
9.01	Owner’s Representative.....	37
9.02	Visits to Site	37
9.03	Project Representative	38

9.04	Authorized Variations in Work	38
9.05	Rejecting Defective Work	38
9.06	Shop Drawings, Change Orders and Payments	38
9.07	Determinations for Unit Price Work	38
9.08	Decisions on Requirements of Contract Documents and Acceptability of Work	39
9.09	Limitations on Engineer's Authority and Responsibilities.....	39
9.10	Compliance with Safety Program.....	40
Article 10 –	Changes in the Work; Claims	40
10.01	Authorized Changes in the Work	40
10.02	Unauthorized Changes in the Work	40
10.03	Execution of Change Orders.....	40
10.04	Notification to Surety.....	41
10.05	Claims.....	41
Article 11 –	Cost of the Work; Allowances; Unit Price Work.....	42
11.01	Cost of the Work	42
11.02	Allowances	44
11.03	Unit Price Work	45
Article 12 –	Change of Contract Price; Change of Contract Times.....	45
12.01	Change of Contract Price.....	45
12.02	Change of Contract Times	47
12.03	Delays.....	47
Article 13 –	Tests and Inspections; Correction, Removal or Acceptance of Defective Work.....	48
13.01	Notice of Defects	48
13.02	Access to Work	48
13.03	Tests and Inspections	48
13.04	Uncovering Work.....	49
13.05	Owner May Stop the Work.....	49
13.06	Correction or Removal of Defective Work.....	49
13.07	Correction Period	50
13.08	Acceptance of Defective Work	51
13.09	Owner May Correct Defective Work.....	51
Article 14 –	Payments to Contractor and Completion.....	52
14.01	Schedule of Values	52
14.02	Progress Payments	52
14.03	Contractor's Warranty of Title	54
14.04	Substantial Completion.....	55
14.05	Partial Utilization	55
14.06	Final Inspection.....	56
14.07	Final Payment	56
14.08	Final Completion Delayed.....	57
14.09	Waiver of Claims	58

Article 15 – Suspension of Work and Termination	58
15.01 Owner May Suspend Work	58
15.02 Owner May Terminate for Cause	58
15.03 Owner May Terminate For Convenience.....	59
15.04 Contractor May Stop Work or Terminate	60
Article 16 – Dispute Resolution	60
16.01 Methods and Procedures.....	60
Article 17 – Miscellaneous.....	61
17.01 Giving Notice.....	61
17.02 Computation of Times	61
17.03 Cumulative Remedies	61
17.04 Survival of Obligations.....	61
17.05 Controlling Law	61
17.06 Headings.....	61

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

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

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

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

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

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

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

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

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

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

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

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

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

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

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
 2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

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

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

4.01 *Availability of Lands*

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

Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

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

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

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

C. *Possible Price and Times Adjustments*:

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

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

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to

permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

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

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:
 - 1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners,

employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of

them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

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

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

5.07 *Waiver of Rights*

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

5.08 *Receipt and Application of Insurance Proceeds*

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

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

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

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

6.02 *Labor; Working Hours*

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

6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

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

2. *Substitute Items:*

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

- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- 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 create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner

and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

- 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 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 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. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts

any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

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

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.

- b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.
- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Submittal Procedures:*

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

D. *Engineer's Review:*

- 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
- 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the

Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

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

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe

access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

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

7.03 *Legal Relationships*

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

ARTICLE 8 – OWNER’S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws

and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations

on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

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

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of,

and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

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

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of

executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

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

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:*
1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in

the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee*: The Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

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

12.03 *Delays*

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

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

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

13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers,

architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. Applications for Payments:

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

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's

review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

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

14.03 Contractor's Warranty of Title

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

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and

- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. Engineer's Review of Application and Acceptance:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

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

14.08 Final Completion Delayed

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

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

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

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
3. Contractor's repeated disregard of the authority of Engineer; or
4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other

dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

2. agrees with the other party to submit the Claim to another dispute resolution process; or
3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

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

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

May 26, 2020

Town of Wellington
3735 Cleveland Avenue
PO Box 127
Wellington, Colorado 80549

Attn: Mr. Vince Gentry
P: (970) 568-0447
E: gentryvj@wellingtoncolorado.gov

Re: Proposal for Construction Materials Testing Services
2020 Wellington Old Town Street Repairs
Multiple Locations
Wellington, Colorado
Terracon Reference No. P20201036

Dear Mr. Gentry:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal to provide construction materials services for the 2020 Wellington Old Town Street Repairs project. Our proposal includes a description of the project information provided to us, the proposed scope of services and our estimated fees.

1.0 PROJECT INFORMATION

Our understanding of the required construction materials services for this project is based upon information provided by your firm, Design Documents dated 04/27/2020, and our experience with other projects of this type. Pertinent project information is summarized below.

Item	Description
Location	The project includes the following locations in Wellington, Colorado: • Ruffian Way and Mammoth Circle (1 intersection) • Viewpointe Drive and Adams Drive (1 intersection) • 3rd Street (Wilson to Henderson) (1 block) • 4th Street (Cleveland to Harrison) (1 block) • 4th Street (Grant to Wilson) (2 blocks) • 5th Street (Hays to Grant) (1 block) • 6th Street (Harrison to Grant) (3 blocks)
	The following are the additional bid alternate streets and intersections: • Adams Court and Kit Fox Drive (1 intersection) (add alternate) • Harrison Avenue and 3rd Street (1 block) (add alternate)

Item	Description
Description of Project	We understand the project will consist of asphalt and concrete repairs in multiple locations which may include testing services for the earthwork, concrete, and asphalt construction associated with this project.

2.0 SCOPE OF SERVICES

Terracon proposes to provide testing and inspection services as summarized below.

Item	Description
Earthwork	Qualified personnel will obtain appropriate samples for laboratory tests and perform in-place field density testing for subgrade preparations per project specifications.
Concrete Testing	Testing and sampling will be performed on the concrete used for project construction. The concrete will be tested for slump, air content, unit weight and temperature at the time of placement. Testing will be performed in general accordance with project plans and specifications. 1 set of five 4"x8" cylinders for each 50 cubic yards or fraction thereof for concrete in accordance with project specification.
Asphalt Concrete Pavement	Field density compaction testing by nuclear methods will be performed during asphalt concrete paving operations. The asphaltic concrete pavement will be sampled and tested in accordance with project specifications.
Project Management	A project manager will be assigned to the project to review the daily activity and assist in scheduling the work. Field and laboratory tests will be reviewed prior to final submittal. The project manager will be responsible for maintaining the project budget, communicating with the contractor regarding schedule, deviations, and documenting the resolution of outstanding deviations. In order to help create a good working relationship with the contractor and for the contractor to better understand our scope of work for the project, we request that Terracon be invited to preconstruction meetings prior to each phase of construction.

2.1 Commitment to Fast Report Turnaround

We understand the importance of report turnaround to our clients and are committed to quick delivery of test results as well as the following reporting standards:

- Failing tests or non-conformance items are immediately relayed to the designated parties and handwritten draft reports are available at the end of each day.
- Formal reports with non-conformances (Deviation Reports) are provided within 24 hours of testing.
- Formal reports without non-conformances are provided within five business days.
- Formal laboratory test reports are provided within two days of test completion.

For more information about CMELMS and Terracon, please visit our website at <http://www.terracon.com/services/construction-materials/>

2.2 Terracon Field Representative

In addition to the services described above, our field personnel will provide the following services during their visit:

- Check in with the project superintendent when arriving on-site.
- Confirm that current approved construction documents are available for our field use.
- Provide a field report (if requested).
- Notify the general contractor of our field observations and test results prior to leaving the site.
- Submit a written report to the Terracon project manager for review.
- Our field personnel have the right to decline work if he/she feels the conditions are not safe.

2.3 Scheduling of Services

We understand the client may not be involved with scheduling of services; this is typically the responsibility of the general contractor. We request the following information be passed on to whom will be responsible for scheduling services.

- Scheduling testing services with a minimum of 24 hours of notice.
- Scheduling is performed by calling our dispatch phone number (970) 658-4405.
- Cancellation of services should be done prior to a Terracon representative mobilizing to the project, failure to do so will result in a cancellation fee.
- Terracon will not be responsible for tests that are not performed due to a failure to schedule our services on the project.
- Testing and observations will only determine compliance with project plans and specifications at the test locations, at the time our services are performed.

3.0 COMPENSATION

Based on the project information available for our review, our estimated budget to perform the proposed scope of services is about \$8,760.00. A summary of our unit rates, estimated quantities, and the resulting costs is included on the attached Fee Estimate. Fees for services provided will be based on the unit rates shown in that exhibit. Please note that this is only a budget estimate and not a not-to-exceed price.

Many factors, including those out of our control, such as weather and the contractor's schedule including overtime and weekend work, and the need for re-testing will dictate the final fee for our services. We will not exceed our budget without first notifying you and providing a summary of work performed to date and remaining work. We are available to track the costs of re-testing separately upon your request.

For purposes of our proposal, overtime is defined as all hours in excess of 8 hours per day and all hours worked on nights, weekends and holidays. Overtime rates will be 1.5 times the hourly rate quoted.

4.0 AUTHORIZATION

This proposal may be accepted by executing the attached Agreement for Services and returning the executed copy including this proposal to Terracon. This agreement, including the limitations it contains, shall constitute the exclusive terms, conditions, and services to be performed for this project. Commencement of services by Terracon will be considered acceptance of this proposal and the attached Agreement. This proposal is valid only if authorized within sixty days from the listed proposal date.

We appreciate your consideration of Terracon for this work and look forward to working as your construction materials testing and inspection consultant on this and future projects.

Sincerely,
Terracon Consultants, Inc.


Craig L. Nelson
Materials Project Manager


Eric D. Bernhardt, P.E.
Geotechnical Department Manager

Copies to: Addressee (via e-mail)

Enclosure: Fee Estimate
Agreement for Services

FEE ESTIMATE

SERVICES	UNIT RATES			QTY	TOTAL
*Earthwork Observation and Testing Add Alternate					
Lab Compaction Characteristics (Standard Proctor)	\$130.00 per test	1 test		1	\$130.00
Engineering Technician	\$65.00 per hour	6 visits	2 hours/visit	12	\$780.00
Vehicle Trip Charge	\$20.00 per visit	6 visits		6	\$120.00
				Subtotal	\$1,030.00
Concrete Testing					
Engineering Technician	\$65.00 per hour	13 visits	2.5 hours/visit	32.5	\$2,112.50
Concrete Cylinders	\$20.00 per cylinder	13 tests	5 cyl/test	65	\$1,300.00
Specimen Retrieval	\$65.00 per hour	13 visits	1.5 hour/visit	19.5	\$1,267.50
Vehicle Trip Charge	\$20.00 per visit	26 visits		26	\$520.00
				Subtotal	\$5,200.00
*Concrete Testing Add Alternate					
Engineering Technician	\$65.00 per hour	3 visits	2.5 hours/visit	7.5	\$487.50
Concrete Cylinders	\$20.00 per cylinder	3 tests	5 cyl/test	15	\$300.00
Specimen Retrieval	\$65.00 per hour	3 visits	1.5 hour/visit	4.5	\$292.50
Vehicle Trip Charge	\$20.00 per visit	6 visits		6	\$120.00
				Subtotal	\$1,200.00
Hot-Mix Asphalt Testing					
Engineering Technician	\$65.00 per hour	11 visits	2 hours/visit	22	\$1,430.00
Extraction/Gradation	\$175.00 per test	1 test		1	\$175.00
Theoretical Maximum Specific Gravity	\$85.00 per test	1 test		1	\$85.00
Vehicle Trip Charge	\$20.00 per visit	11 visits		11	\$220.00
				Subtotal	\$1,910.00
*Hot-Mix Asphalt Testing Add Alternate					
Engineering Technician	\$65.00 per hour	1 visits	2 hours/visit	2	\$130.00
Vehicle Trip Charge	\$20.00 per visit	1 visits		1	\$20.00
				Subtotal	\$150.00
Report Review, Engineering & Management					
Project Manager	\$110.00 per hour		2 hours		\$220.00
Project Coordination/Report Review	\$55.00 per report		26 reports		\$1,430.00
*Project Coordination/Report Review Add Alt.	\$55.00 per report		11 reports		\$605.00
				Subtotal	\$1,650.00
*Add Alternate Services				Subtotal	\$2,985.00
Total Estimated Fee (does not include Add Alternate Services)					\$8,760.00
Total Estimated Fee (with Add Alternate Services)					\$11,745.00

Note: While the phases of construction have been separated for estimating purposes in the fee estimate spreadsheet, actual field testing services may be performed simultaneously on the various phases. As a result, total fees for construction materials testing services may be reduced if services are performed during the same trip to the site.

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Wellington CO ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the 2020 Wellington Old Town Street Repairs project ("Project"), as described in Consultant's Proposal dated 05/04/2020 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$25,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

Consultant: **Terracon Consultants, Inc.**
 By: Eric D. Bernhardt Date: **5/26/2020**
 Name/Title: **Eric D. Bernhardt, P.E. / Geotechnical**
Department Manager
 Address: **1901 Sharp Point Dr Ste C**
Fort Collins, CO 80525-4429
 Phone: **(970) 484-0359** Fax: **(970) 484-0454**
 Email: **Eric.Bernhardt@terracon.com**

Client: **Town of Wellington CO**
 By: Vince Gentry Date: **07-07-2020**
 Name/Title: **Vince Gentry**
 Address: **3735 Cleveland Avenue (PO Box 127)**
Wellington, CO 80549
 Phone: **(970) 568-0447** Fax: _____
 Email: **gentryvj@wellingtoncolorado.gov**

Kelly Houghteling
KELLY HOUGHTELING
TOWN ADMINISTRATION



Coyote Ridge Construction, LLC

PO Box 3128
Loveland, Colorado 80539

Bill Clarkin
(970)685-2440
wclarkin@crc-co.net

6/29/2020

PROPOSAL:

Wellington Fire Hydrant Replacement

Please see the attached proposal to complete the above referenced project. Quotation is based on plans provided from the Town of Wellington.

The quoted price **includes** the following:

Labor, Equipment & Material

The quoted price **excludes** the following:

- * Permits, licenses, development fees, Street Cut Fees
- * Unstable Street/Parking Subgrade
- * Dewatering and/or Dewatering Permit
- * Rock Excavation/Blasting, Muck or Frost Excavation
- * Underground Utility Conflicts and/or Relocation
- * Storm Water Management Inspections
- * Hazardous Waste, Import and Export of Material,
- * Winter Protection
- * Stabilization of Trench Bottom
- * Bond(s) and fees
- * Uncontrolled Fill found will have to be Re-Worked

- * Grass Paver By Landscaping
- * Underdrain System (None Listed on Plans)
- * *Due to Volatility in the oil market, asphalt cement suppliers are only providing month to month pricing. Asphalt is valid thru 6/1/18*
- * *Traffic Control figured as Road Closure, Flagging operations to be billed on T&M basis.*
- * *Wetland Mitigation*
- * Storm Water Inspection
- * Landscape & Irrigation By Others
- * Non-Potable By Others
- * Sleeve Pricing will be provided when Conduit Plans are provided.

Wellington Fire Hydrant Replacement		
Fire Hydrant Replacement	\$	38,798.00
TOTAL	\$	38,798.00

Acceptance of Proposal:

Developer/Owner

Date

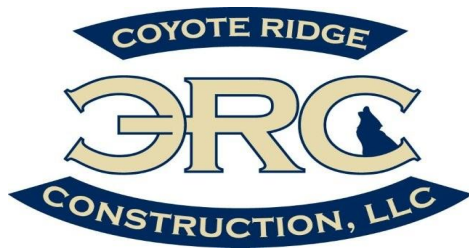
Coyote Ridge Construction, LLC

Date

Prices are good for 30 days from date of quotation.

Wellington Fire Hydrant Replacement

Fire Hydrant Replacement	Quantity	Unit	Grand Total Unit Price	Grand Total Price
Mobilization	1	LS	\$ 2,500.00	\$ 2,500.00
Remove Existing Hydrant	2	EA	\$ 1,815.00	\$ 3,630.00
Install New Hydrant	3	EA	\$ 7,200.00	\$ 21,600.00
6" PVC w/11.25 Deg Bend	40	LF	\$ 67.50	\$ 2,700.00
Flow Fill for Trench	24	CY	\$ 178.00	\$ 4,272.00
Replace Concrete Walk- Boxelder Ct	6	LF	\$ 96.00	\$ 576.00
Asphalt Patching-Boxelder Ct	22	SY	\$ 160.00	\$ 3,520.00
				\$ 38,798.00



Coyote Ridge Construction, LLC

PO Box 3128
Loveland, Colorado 80539

Bill Clarkin
(970)685-2440
wclarkin@crc-co.net

6/29/2020

PROPOSAL:

Wellington Fire Hydrant Replacement-Additional Hydrant

Please see the attached proposal to complete the above referenced project. Quotation is based on plans provided from the Town of Wellington. The pricing below is for the hydrant located at 3919 Franklin

The quoted price **includes** the following:

Labor, Equipment & Material

The quoted price **excludes** the following:

- * Permits, licenses, development fees, Street Cut Fees
- * Unstable Street/Parking Subgrade
- * Dewatering and/or Dewatering Permit
- * Rock Excavation/Blasting, Muck or Frost Excavation
- * Underground Utility Conflicts and/or Relocation
- * Storm Water Management Inspections
- * Hazardous Waste, Import and Export of Material,
- * Winter Protection
- * Stabilization of Trench Bottom
- * Bond(s) and fees
- * Uncontrolled Fill found will have to be Re-Worked

- * Grass Paver By Landscaping
- * Underdrain System (None Listed on Plans)
- * *Due to Volatility in the oil market, asphalt cement suppliers are only providing month to month pricing. Asphalt is valid thru 6/1/18*
- * *Traffic Control figured as Road Closure, Flagging operations to be billed on T&M basis.*
- * *Wetland Mitigation*
- * Storm Water Inspection
- * Landscape & Irrigation By Others
- * Non-Potable By Others
- * Sleeve Pricing will be provided when Conduit Plans are provided.

Wellington Fire Hydrant Replacement-Additional Hydrant	
Fire Hydrant Replacement	\$ 15,370.50
TOTAL	\$ 15,370.50

Acceptance of Proposal:

Developer/Owner

Date

Coyote Ridge Construction, LLC

Date

Prices are good for 30 days from date of quotation.

Wellington Fire Hydrant Replacement-Additional Hydrant

Fire Hydrant Replacement	Quantity	Unit	Grand Total Unit Price	Grand Total Price
Remove Existing Hydrant	1	EA	\$ 1,815.00	\$ 1,815.00
Install New Hydrant	1	EA	\$ 7,200.00	\$ 7,200.00
6" PVC w/11.25 Deg Bend	25	LF	\$ 67.50	\$ 1,687.50
Flow Fill for Trench	14	CY	\$ 178.00	\$ 2,492.00
Replace Concrete Walk-3919 Franklin	6	LF	\$ 96.00	\$ 576.00
Asphalt Patching-3919 Franklin	10	SY	\$ 160.00	\$ 1,600.00
				\$ 15,370.50



Board of Trustees Meeting

Date: July 14, 2020

Submitted By:

Resolution 25-2020 - A Resolution of the Board of Trustees Appointing a Town Clerk

Subject:

- **Staff presentation: Brad March, Town Attorney**

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. RESOLUTION NO 25-2020

TOWN OF WELLINGTON

RESOLUTION NO. 25-2020

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, APPOINTING A TOWN CLERK.

WHEREAS, the Board of Trustees of the Town of Wellington, Colorado (the “Board”) has adopted and reenacted the Wellington Municipal Code (the “Code”); and

WHEREAS, Colorado Revised Statute § 31-4-304 provides that the Board shall appoint a Town Clerk; and

WHEREAS, Section 2 of the Code provided for appointment of officers, including, as set forth in Section 2-3-10, the Town Administrator/Clerk, Town Attorney, Town Treasurer and Municipal Judge; and

WHEREAS, Section 2 of the Code was amended by Ordinance 9-2020, adopted by the Board on May 25, 2020, effective August 1, 2020 or 30 days from the date of publication; and

WHEREAS, as amended by Ordinance 9-2020, the position of Town Administrator/Clerk was separated, providing for appointment separately of the Town Administrator and the Town Clerk and the Code at Section 2-3-25 was amended to provide that the Board shall appoint a Town Clerk to hold office at the pleasure of the Board and that before entering upon the duties of the office, the Town Clerk shall take an oath of office.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

The Board, effective the later of August 1, 2020 or 30 days from the date of publication of Ordinance 9-2020, appoints Krystal Eucker to serve as the Town Clerk for the Town of Wellington Colorado, and directs that the oath of office be administered.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 14th day of July, 2020

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Kelly Houghteling, Interim Town Administrator/ Clerk



Board of Trustees Meeting

Date: July 14, 2020

Submitted By:

Resolution 26-2020 - A Resolution Amending Hours of Outdoor Watering

Subject: • **Staff presentation: Brad March, Town Attorney**

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. RESOLUTION NO 26-2020

RESOLUTION NO. 26-2020

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO AMENDING HOURS OF OUTDOOR WATERING

WHEREAS, Section 13-1-160(a) of the Wellington Municipal Code concerning sprinkling and water scarcity states the Town Board shall have the authority to establish such rules and regulations so as to limit the days of outdoor watering or sprinkling or to limit the use of water in such manner as it shall deem necessary. Such regulations may be adopted by Resolution and shall become effective immediately upon passage.; and

WHEREAS, drinking water demand has increased significantly, due in part to COVID-19 factors such as the stay-at-home requirements.

WHEREAS, up to 75% of water is lost through evaporation when watering is done during the heat of the day.

WHEREAS, the Town has maintained in place outdoor watering restrictions since 2013 as adopted by Resolution 8-2013.

WHEREAS, water use has become a more pervasive problem for the Town and water delivery costs have risen dramatically and supply capacity has become more limited as a result of increased burdens on the Town's water treatment plant.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

SECTION 1: Mandatory Restrictions

Effectively immediately upon passage, outdoor watering within the Town of Wellington using treated water supplies from the Town's Water Utility shall be limited as follows:

1. Between May and October 15, 2020, outdoor watering shall be restricted to the hours between 8:00 p.m. and 8:00 a.m. the next morning.
2. Addresses with odd street numbers shall only water on Tuesdays and Saturdays.
3. Addresses with even street numbers shall only water on Wednesdays and Sundays.
4. Runoff from irrigation shall be kept to an insignificant minimum.
5. Irrigation overspray onto non-vegetated areas is prohibited.
6. Washing of outside paved or concrete areas is prohibited.

Notwithstanding the foregoing the following are allowed during the hours of 8:00 p.m. and 8:00 a.m.

1. watering of gardens and plants, including vegetable gardens and containers; and
2. watering of new grass seed, sod and landscape vegetation if the landowner/occupant establishes vegetation is not more than 30 days from planting.

If water production falls below levels required to provide water demand or the Town Administrator and Town Engineer determine that water supplies are in jeopardy of not being able to meet demands, the Town Administrator and Town Engineer may order that outside watering with domestic water supplies be reduced to one day a week and such order may provide for established watering days based on addresses.

SECTION 2.: Water Wells

If outdoor watering using adjudicated water wells ("Non-Utility Watering") occurs, the well owner shall at all times when water is being applied conspicuously post the property as being watered using "well water" or "non-potable water."

SECTION 3: Voluntary Restrictions

Residents applying utility and non-utility water are encouraged to follow the following voluntary restrictions to conserve water and reduce the potential for more stringent mandatory restrictions.

1. Non-utility users Limit outdoor watering to no more than 2 days a week.
2. After rainstorms, turn off automatic watering systems until lawns start to get dry again.
3. Watering should be limited to only that which is necessary to keep lawns and other landscape plans alive and healthy.
4. Non-utility Sprinkler systems should be maintained and adjusted to prevent water running off the lawn and into the street gutter.
5. If cars are washed outdoors at home, washing should be done with buckets and rinsed by hose with a spray nozzle. Avoid letting water run.

SECTION 4: VIOLATIONS:

As provided by the Wellington Municipal Code at 13-1-160(a), Enforcement shall be by summons issued in accordance with Section 2-4-140 of the Code. The property of any User violating this provision shall be subject to utility service termination. Penalties may be enforced against the occupant or owner of any property or any person responsible for violating watering restrictions. Each day that such violation continues to exist shall be considered a separate offense. Violation of watering restrictions as provided for by this resolution shall be a non-criminal violation and pursuant to Wellington Municipal Code Section 1-4-20, any person convicted of a noncriminal violation may be fined by an amount not to exceed one thousand dollars (\$1,000.00). In addition, such person shall pay all costs and expenses in the case, including attorney fees.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 14th day of July, 2020

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Kelly Houghteling, Interim Town Administrator/ Clerk

Permit Application and Report of Changes

Current License Number 03-06783
All Answers Must Be Printed in Black Ink or Typewritten
Local License Fee \$ _____

1. Applicant is a ☒ Corporation ☐ Individual ☐ Partnership ☐ Limited Liability Company		Present License Number 03-06783
2. Name of Licensee EL MEZCAL, INC	3. Trade Name SOL DE JALISCO MEXICAN RESTAURANT	
4. Location Address 3748 - 3750 CLEVELAND AVE, CO		
City WELLINGTON, CO	County LARIMER	ZIP 80549

SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.

Section A – Manager reg/change	Section C
• License Account No. _____ ☐ Manager's Registration (Hotel & Restr.) \$75.00 ☐ Manager's Registration (Tavern) \$75.00 ☐ Manager's Registration (Lodging & Entertainment) \$75.00 ☐ Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE	☐ Retail Warehouse Storage Permit (ea) \$100.00 ☐ Wholesale Branch House Permit (ea) 100.00 ☐ Change Corp. or Trade Name Permit (ea) 50.00 ☐ Change Location Permit (ea) 150.00 ☒ Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____ ☐ Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ ☐ Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____ ☐ Campus Liquor Complex Designation No Fee ☐ Sidewalk Service Area \$75.00
Section B – Duplicate License	
• Liquor License No. _____ ☐ Duplicate License \$50.00	

Do Not Write in This Space – For Department of Revenue Use Only

Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$.00

Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

☐ **Section A**

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 5. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ **Section B**

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

☒ **Section C**

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Campus Liquor Complex Designation**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 8) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

Storage Permit	5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit ☐ Retail Warehouse Permit for: ☐ On-Premises Licensee (Taverns, Restaurants etc.) ☐ Off-Premises Licensee (Liquor stores) ☐ Wholesalers Branch House Permit Address of storage premise: _____ City _____, County _____, Zip _____ Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.				
Change Trade Name or Corporate Name	6. Change of Trade Name or Corporation Name ☐ Change of Trade name / DBA only ☐ Corporate Name Change (Attach the following supporting documents) 1. Certificate of Amendment filed with the Secretary of State, or 2. Statement of Change filed with the Secretary of State, <u>and</u> 3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 2px;">Old Trade Name</td><td style="width: 50%; padding: 2px;">New Trade Name</td></tr> <tr> <td style="padding: 2px;">Old Corporate Name</td><td style="padding: 2px;">New Corporate Name</td></tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
Change of Location	7. Change of Location NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held. Date filed with Local Authority _____ Date of Hearing _____ (a) Address of current premises _____ City _____ County _____ Zip _____ (b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee) Address _____ City _____ County _____ Zip _____ (c) New mailing address if applicable. Address _____ City _____ County _____ State _____ Zip _____ (d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.				

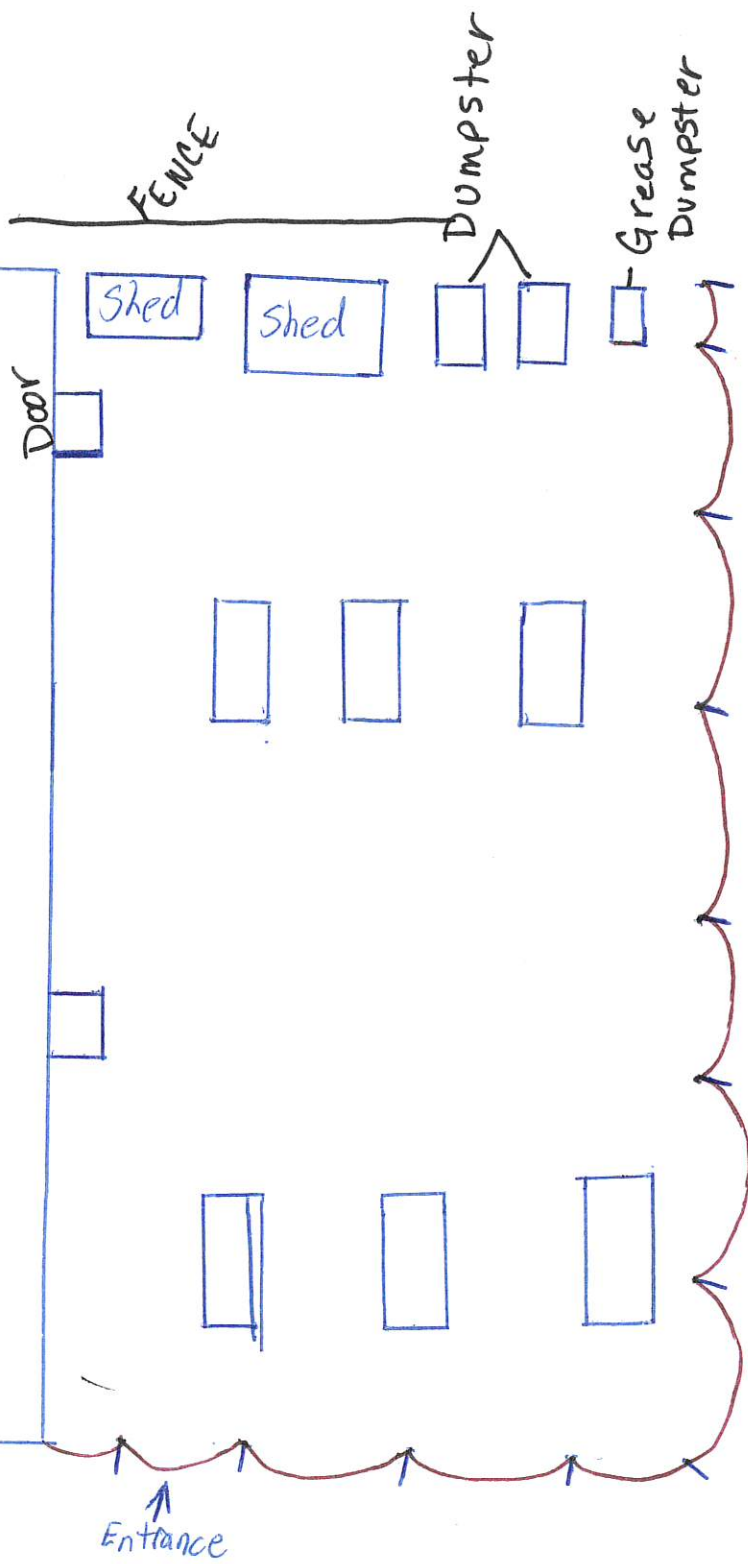
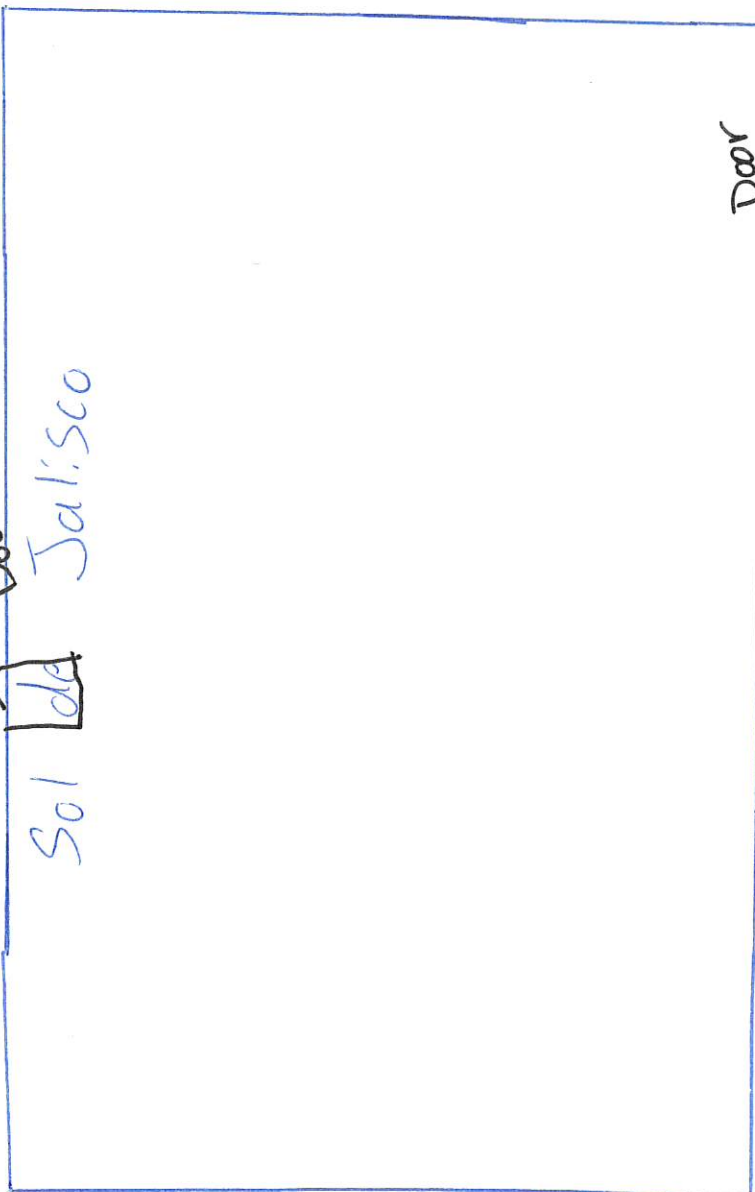
Change of Manager	8. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8). (a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging & Entertainment only) Former manager's name _____ New manager's name _____ (b) Date of Employment _____ Has manager ever managed a liquor licensed establishment? Yes ☐ No ☐ Does manager have a financial interest in any other liquor licensed establishment? Yes ☐ No ☐ If yes, give name and location of establishment _____
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities. (a) Describe change proposed _____ _____ Addition of licensed sidewalk area as allowed by the town of Wellington (b) If the modification is temporary, when will the proposed change: Start <u>immediate</u> (mo/day/year) End <u>of Pandemic</u> (mo/day/year) NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00 (c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? (If yes, explain in detail and describe any exemptions that apply) Yes ☐ No ☒ (d) Is the proposed change in compliance with local building and zoning laws? Yes ☒ No ☐ (e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? Yes ☐ No ☒ (f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises. (g) Attach any existing lease that is revised due to the modification. (h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.
Campus Liquor Complex Designation	10. Campus Liquor Complex Designation An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes ☐ No ☐
Additional Related Facility	11. Additional Related Facility To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided Yes ☐ No ☐

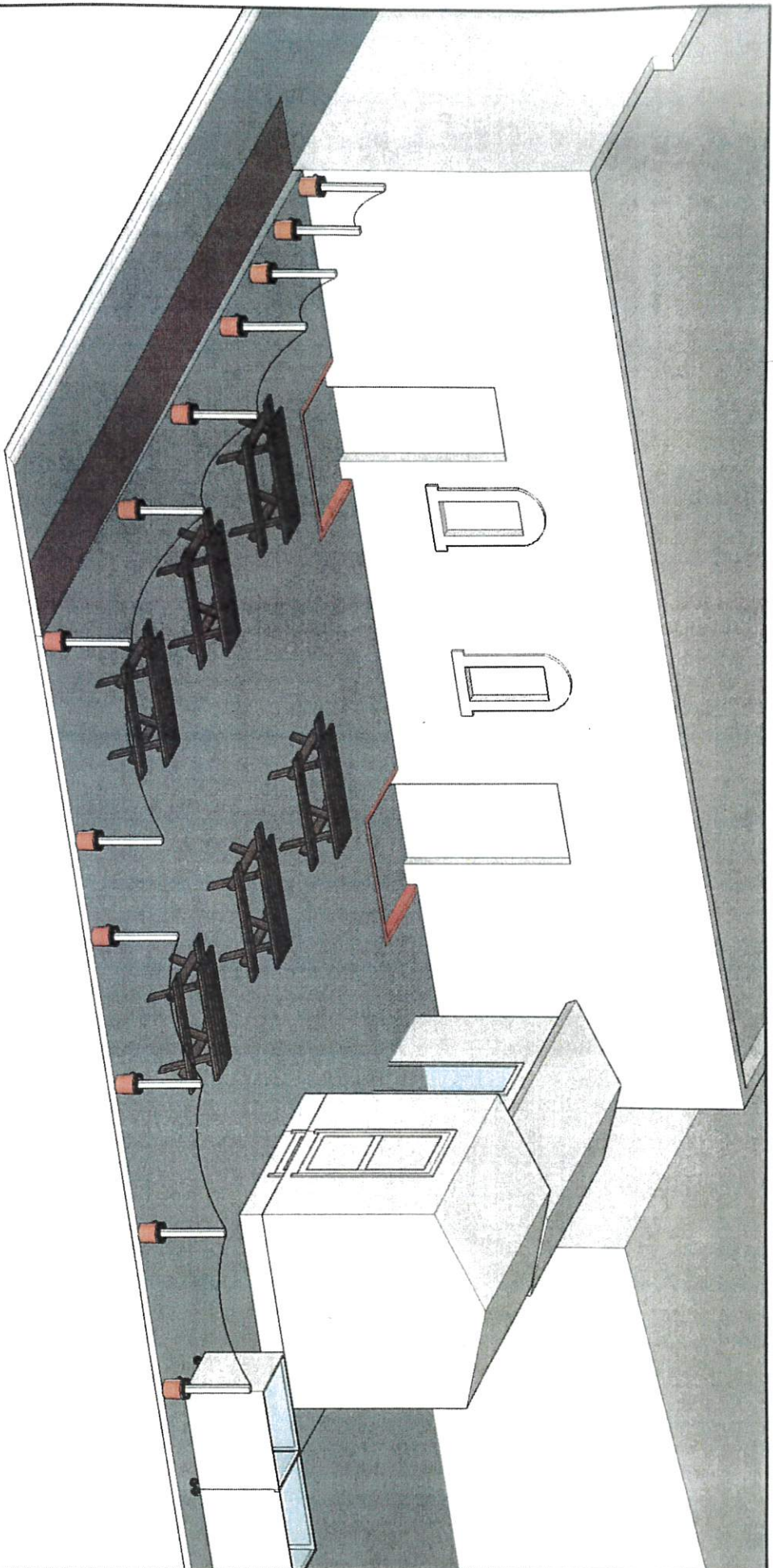
Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature <i>Meyma Rodriguez</i>	Title <i>owner</i>	Date <i>7/2/20</i>
Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. Therefore, This Application is Approved.		
Local Licensing Authority (City or County)		Date filed with Local Authority
Signature	Title	Date
Report of STATE Licensing Authority		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date

Cleveland Ave.

Front Door

Sol Jalisco





Preliminary Design
NTS



Artis Timber Works
970-286-0550
Tim@Artistimberworks.com

CLIENT
Emiliano and Myrna
3748-3750 Cleveland Ave
Wellington, CO 80649

PROJECT
Sol de Jalisco
Outdoor seating

PROJECT NO.

ISSUE
6.14.20
Re ISSUE
7.7.20

DRAWN BY
TLW

DESCRIPTION
Back Patio,
proposed

To whom it may concern:

We are requesting permission to extend seating outdoors using back space for extra seating, enclosed by posts and ropes or links. There will be servers attending outside and asking for ID's for alcohol orders and warning posters for illegal underage drinkers. Please let me know if you have any questions. Thank you.

Sincerely,

Sol de Jalisco Mexican Rest. In Wellington, CO
Myrna Rodriguez
970-581-0995

To Whom it may concern,

July 7, 2020

My name is Mary Gray, I am one of the owners at Soul Squared Brewing and Leave It To Cleaver. I am writing this letter today as a recommendation for the owners of Sol Jalisco. I understand that they are working towards expanding their liquor license in order to include their newly added patio space to the North side of their building as an area where people can enjoy libations. Not only do I think the expanded space will be a hugely positive asset for the Town of Wellington, but I have known the owners and staff of Sol Jalisco to be very responsible and thoughtful business owners and neighbors. I would highly recommend that the Liquor Control Board vote in favor of allowing Sol Jalisco to expand their liquor license to include the back patio sooner than later.

Thank you for your consideration. If you have any questions or concerns, feel free to contact me by email at mary@soulsquaredbrewing.com

Kind regards,

Mary Gray

NOTICE

**PURSUANT TO THE LIQUOR LAWS OF
THE STATE OF COLORADO**

SOL DE JALISCO MEXICAN RESTAURANT

**HAS REQUESTED THE LICENSING
OFFICIALS OF THE
LIQUOR LICENSE REVIEW BOARD
TO GRANT:**

**Temporary Modification of Premise
LICENSE AT: 3748-3750 Cleveland Ave.
Wellington, CO 80549**

**HEARING ON APPLICATION TO BE HELD AT:
Via Zoom Meeting**

**<https://zoom.us/j/92115216052>
OR Call In at 1-346-248-7799 - Meeting ID: 921 1521 6052**

TIME AND DATE:

July 14, 2020 at 6:30 p.m.

DATE OF APPLICATION: July 2, 2020

BY ORDER OF THE TOWN OF WELLINGTON

**ADDRESS/CONTACT INFORMATION AT WHICH PETITIONS OF DENONSTRANCES MAY BE FILED
Town Clerk, 3735 Cleveland Ave. Wellington, Co 80549 / 970-568-3381**



DISCOVER



VISA

AMERICAN EXPRESS

Contactless
Accepted

Krystal Eucker

From: Myrna Contreras <mcontreras2074@yahoo.com>
Sent: Tuesday, July 7, 2020 12:42 PM
To: Krystal Eucker
Subject: Fw: DOR Liquor Enforcement Division Payment Receipt

Myrna Rodriguez
Begin forwarded message:

On Monday, July 6, 2020, 9:10 PM, support@www.colorado.gov wrote:

Payment Receipt Confirmation

Your payment was successfully processed.

Your payment was successfully processed.

Contact Name Liquor Enforcement Division
Contact Email DOR_LIQLICENSING@state.co.us
Contact Phone 303-205-2300
Contact Url [//www.colorado.gov/enforcement/contact-us-liquor-tobacco-enforcement-division](https://www.colorado.gov/enforcement/contact-us-liquor-tobacco-enforcement-division)
Contact Address 1697 Cole Blvd, Suite 200
Lakewood, CO 80401

Transaction Summary

Description	Amount
DOR Liquor Enforcement Division Payment	\$150.00
Service Fee	\$4.14
TOTAL	\$154.14

This online service is provided by a 3rd party working in partnership with the state of Colorado. The price of items purchased through this service includes revenue used to develop, maintain, and enhance the state's official web portal, Colorado.gov.

Customer Information

Customer Name Myrna Rodriguez
Company Name El Mezcal, Inc d/b/a Sol de Jalisco Mexican Rest.
Local Reference ID D6DB54D4AEBF40EDD7C332F6D0A76F8C

Receipt
Date 7/6/2020
Receipt
Time 09:10:20 PM MDT

Payment Information

Payment Type Credit Card
Credit Card Type VISA
Credit Card Number *****1254
Order ID 142729994
Billing Name El Mezcal, Inc

Billing Information

Billing Address 3750 Cleveland Ave
P.O. Box 38
Billing City, State Wellington, CO
ZIP/Postal Code 80549
Country US
Phone Number 970-568-3082
This receipt has been emailed to the address
below.
Email Address Mcontreras2074@yahoo.com

Board of Trustees Meeting

Date: July 14, 2020
Submitted By: Kelly Houghteling, Interim Town Administrator
Subject: Executive Search Firm for Town Administrator

EXECUTIVE SUMMARY

The Town received nine (9) proposals for the Executive Search Firm to lead the Town Administrator Recruitment.

Staff is seeking feedback on the top firms identified by the Board of Trustees and if the Board has additional follow-up questions before proceeding with contract award.

At the Tuesday night meeting, the Board of Trustees will have an opportunity to discuss their scoring sheets with other board members.

BACKGROUND / DISCUSSION

Proposed Timeline

Monday, July 13: Scoring Sheets

Tuesday, July 14: Discuss Scoring Sheet Results

Tuesday, July 28: Award Contract

STAFF RECOMMENDATION

For discussion.

ATTACHMENTS

None



LARIMER COUNTY SHERIFF'S OFFICE

Justin E. Smith, Sheriff

One Agency

One Mission

Public Safety

June 29, 2020

Town of Wellington
Attn: Kelly Houghteling, Interim Town Administrator
PO Box 127
Wellington, Colorado 80549

Dear Ms. Houghteling:

Monthly from January through December 2020, the Larimer County Sheriff's Office will provide 342 hours of supervisor time, 1,026 hours of general patrol service, 85 hours of investigating services, 171 hours of desk deputy time, and 171 hours of school resource services per month within the corporate limits of the Town. The supervisor time and general patrol service hours are provided by deputies assigned to the Town.

During the month of **May 2020**, non-assigned deputies spent a total of **238.87** hours in Wellington responding to calls, patrolling, and making contacts in the town.

During the month of **May 2020** there were **87.33** hours worked by Investigations.

During the month of **May 2020** there were **97.0** hours worked by Northern Colorado Drug Task Force.

Of Note: On May 31st, there was an organized march for unity and peace that took place. Deputies met with the organizers and assisted them with traffic control as they peacefully marched. The people were grateful for the deputies presence and demeanor throughout the event.

With the schools being closed during the month of May, one of the SROs assisted the Wellington Annex taking calls.

Pursuant to the Law Enforcement Agreement between the Town of Wellington and Larimer County, applicable documenting monthly forms are attached.

Thank you,

A handwritten signature in black ink, appearing to read "Joe Shellhammer".

Captain Joe Shellhammer
(970) 498-5103
Attachments

Administration
2501 Midpoint Dr.
Fort Collins, CO 80525
970 498-5100

County Jail
2405 Midpoint Dr.
Fort Collins, CO 80525
970 498-5200

Emergency Services
1303 N. Shields
Fort Collins, CO 80524
970 498-5300



LARIMER COUNTY SHERIFF'S OFFICE

Wellington Calls for Service and Patrol Time Report

(For Non-Wellington Officers)

5/1/2020 to 5/31/2020

****This report will not calculate time prior to April 1, 2014****

***Officers excluded from the report data: 9S8, 9E3, 9E31, 9E7, 9Z89, 9E87, 9E5, 9E27, 9E2, 9E50, 9X106

Wellington Time:

Time on Calls and Patrolling (minutes/Hours) - Non-Wellington Units - 5/1/2020 to 5/31/2020

		Total Minutes Hours	Call/Contact Time	Patrol Time
Total	Minutes	14,332.00	9,851.00	4,481.00
	Hours	238.87	164.18	74.68
May	Minutes	14,332.00	9,851.00	4,481.00
2020	Hours	238.87	164.18	74.68

Call/Contact Time: Time spent on dispatched or self initiated calls and person or vehicle contacts.

Patrol Time: Time spent patrolling in the Town when not on a specific call or contact.



Larimer County Sheriff's Office

Investigator Hours by Town\Squad\Officer

Date Range: 5/1/2020 to 5/31/2020

	Total
Total	87.33
Wellington	87.33
LIPE	41.75
L08002	25.75
L14035	3.00
L15055	0.00
L91009	11.00
L96023	2.00
LIPR	45.58
L05002	0.00
L05015	15.08
L07016	6.00
L13019	7.00
L17029	17.50

Wellington Monthly Report

May 2020

Larimer County Sheriff's Office

Christine Harpel
Senior Administrative Assistant

6/10/2020

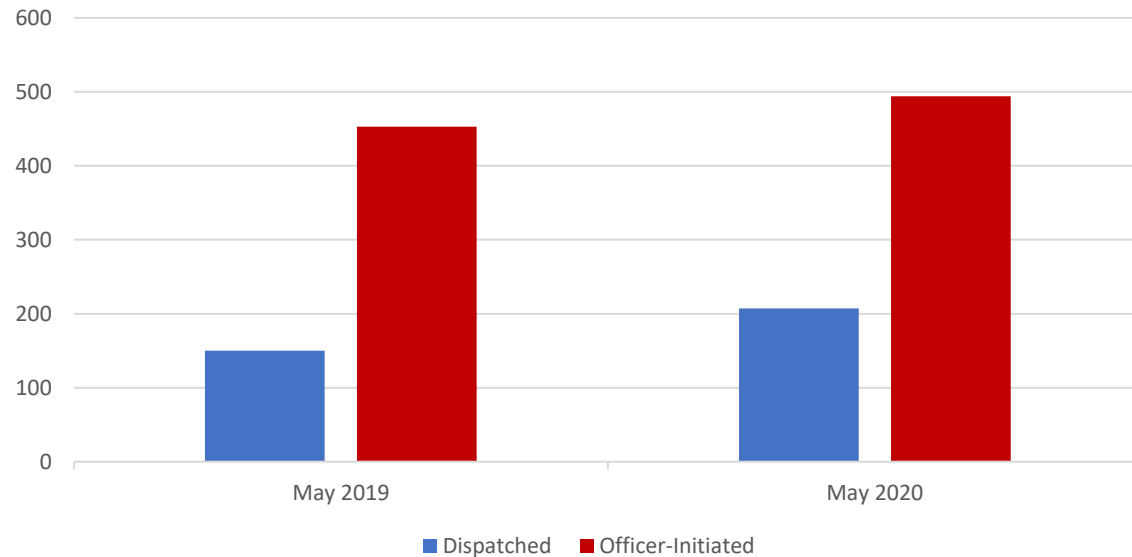
Page 322 of 329

May 2020 Totals

Dispatched / Officer-Initiated Activity

Dispatched Calls	207
Officer Initiated	494
May 2020 Total	701

Dispatched vs Officer-Initiated Activity



- Dispatched calls were Up 57 or 38% from May 2019
- Officer-Initiated Activity was Up 41 or 9% from May 2019

	May 2019	May 2020
Dispatched Calls	150	207
	25%	30%
Officer Initiated	453	494
	75%	70%
Total	603	701

- 30% were Dispatched Calls
- 70% was Officer-Initiated Activity

May 2020 Calls for Service

Calls for Service Comparison

Call Types A-M

Call Type	2017	2018	2019	Avg 17-19	2020	% Change 3-Yr Avg to 2020
Alarm Calls	10	6	4	6.67	5	-25%
Alcohol Calls	0	1	0	0.33	0	-100%
Animal Calls	7	7	10	8.00	15	88%
Assault	2	3	1	2.00	1	-50%
Assist Other Agency (Fire/Med)	14	17	20	17.00	10	-41%
Burglary	2	2	1	1.67	1	-40%
Child abuse	3	1	0	1.33	1	-25%
Citizen Assist	35	17	15	22.33	22	-1%
Civil	12	13	14	13.00	8	-38%
Criminal Mischief	1	5	1	2.33	4	71%
Death Investigation	0	0	1	0.33	0	-100%
Disturbance	8	6	10	8.00	6	-25%
Drug case	3	2	2	2.33	2	-14%
DUI Arrest	0	1	1	0.67	3	350%
Extra Checks & Business Check	302	116	243	220.33	286	30%
Family Problems	7	12	5	8.00	16	100%
Fireworks	1	1	0	0.67	1	50%
Follow up	51	50	20	40.33	53	31%
Found property	1	1	2	1.33	1	-25%
Fraud	3	3	5	3.67	7	91%
Harassment	2	4	5	3.67	6	64%
Juvenile Problem	6	11	7	8.00	5	-38%
Littering	1	0	0	0.33	1	200%
Lost Property	3	0	3	2.00	2	0%
Missing Person (Child/Adult)	3	1	1	1.67	4	140%
Motor Vehicle Accident	4	8	6	6.00	2	-67%
Municipal Code Violation	4	5	1	3.33	8	140%

Call Types N-Z

Call Type	2017	2018	2019	Avg 17-19	2020	% Change 3-Yr Avg to 2020
Neighbor Problems	4	0	3	2.33	3	29%
Noise\Party Complaint	2	4	5	3.67	6	64%
Pedestrian Contact/Subject St	4	3	6	4.33	10	131%
Private Tow	4	3	4	3.67	0	-100%
REDDI Report	2	4	5	3.67	1	-73%
School Check	21	14	29	21.33	0	-100%
Sex assault	1	0	2	1.00	0	-100%
Sex Offender Check	0	5	3	2.67	2	-25%
Solicitor	1	0	0	0.33	1	200%
Suicide	1	0	0	0.33	0	-100%
Suicide Att/Threat	2	7	0	3.00	2	-33%
Suspicious Circumstances	36	20	25	27.00	27	0%
Theft	9	10	3	7.33	7	-5%
Traffic Problem	15	12	11	12.67	18	42%
Traffic Stop	33	86	88	69.00	95	38%
Trespass	1	2	0	1.00	1	0%
Vehicle Theft	4	2	0	2.00	1	-50%
Vehicle Trespass	3	1	1	1.67	8	380%
VIN Check	11	3	24	12.67	8	-37%
Warrant Attempt/Arrest	4	1	1	2.00	9	350%
Weapon Related	0	1	0	0.33	1	200%
Welfare Check	10	12	7	9.67	17	76%
Unspecified	1	9	8	6.00	14	133%
TOTALS	654	492	603	583.00	701	20%

% Change 3-Yr Avg to 2020 = N/C because value cannot divide by 0

Calls for Service UP 98 or 16% from May 2019

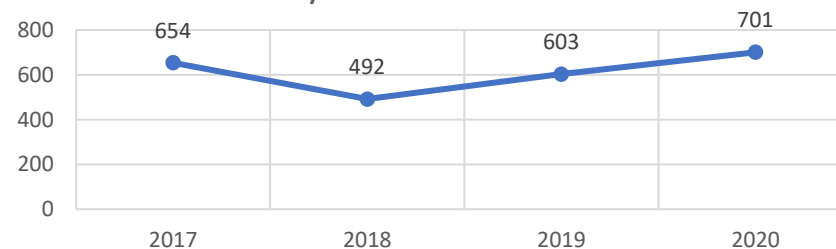
May 2020 calls UP 20% from May 2017-2019 Average

May 2020 Call Categories

Crime Type Averages / Trends

Property Crimes							Disorder/Other Crimes					
Call Type	2017	2018	2019	Avg 17-19	2020		Call Type	2017	2018	2019	Avg 17-19	2020
Burglary	2	2	1	1.67	1		Alcohol Calls	0	1	0	0.33	0
Theft	9	10	3	7.33	7		Animal Calls	7	7	10	8.00	15
Vehicle Theft	4	2	0	2.00	1		Criminal Mischief	1	5	1	2.33	4
Vehicle Trespass	3	1	1	1.67	8		Disturbance	8	6	10	8.00	6
Property Crimes Totals	18	15	5	12.67	17		Drug case	3	2	2	2.33	2
							Family Problems	7	12	5	8.00	16
Persons Crimes							Harassment	2	4	5	3.67	6
Call Type	2017	2018	2019	Avg 17-19	2020		Juvenile Problem	6	11	7	8.00	5
Assault	2	3	1	2.00	1		Noise\Party Complaint	2	4	5	3.67	6
Missing Person (Child/Adult)	3	1	1	1.67	4		Suspicious Circumstances	36	20	25	27.00	27
Robbery	0	0	0	0	0		Trespass	1	2	0	1.00	1
Sex assault	1	0	2	1.00	0		Disorder Crimes Totals	73	74	70	72.33	88
Weapon Related (menacing,	0	1	0	0.33	1		Red numbers indicate a DECREASE in crime from May 2017-2019 Average					
Persons Crimes Totals	6	5	4	5.00	6		Yellow backgrounds indicate an INCREASE in crime from May 2017-2019 Average					

May 2017-2020 Totals



May 2020 Traffic

Traffic Citations	5/19	5/20
Traffic Citations Issued	6	8
Traffic Verbal Warnings	47	71
Traffic Written Warnings	1	2

➤ Citations Up 2 or 33%

➤ Verbal Warnings Up 24

➤ Written Warnings Up 1

Call Type	5/19	5/20
Traffic Stop	88	95
Motor Vehicle Accident	6	2
DUI Arrest	1	3
Traffic Problem	11	18
REDDI Report	5	1

➤ Traffic Stops Up 7 or 8%

➤ MV Accidents Down 4

➤ DUI Arrests Up 2

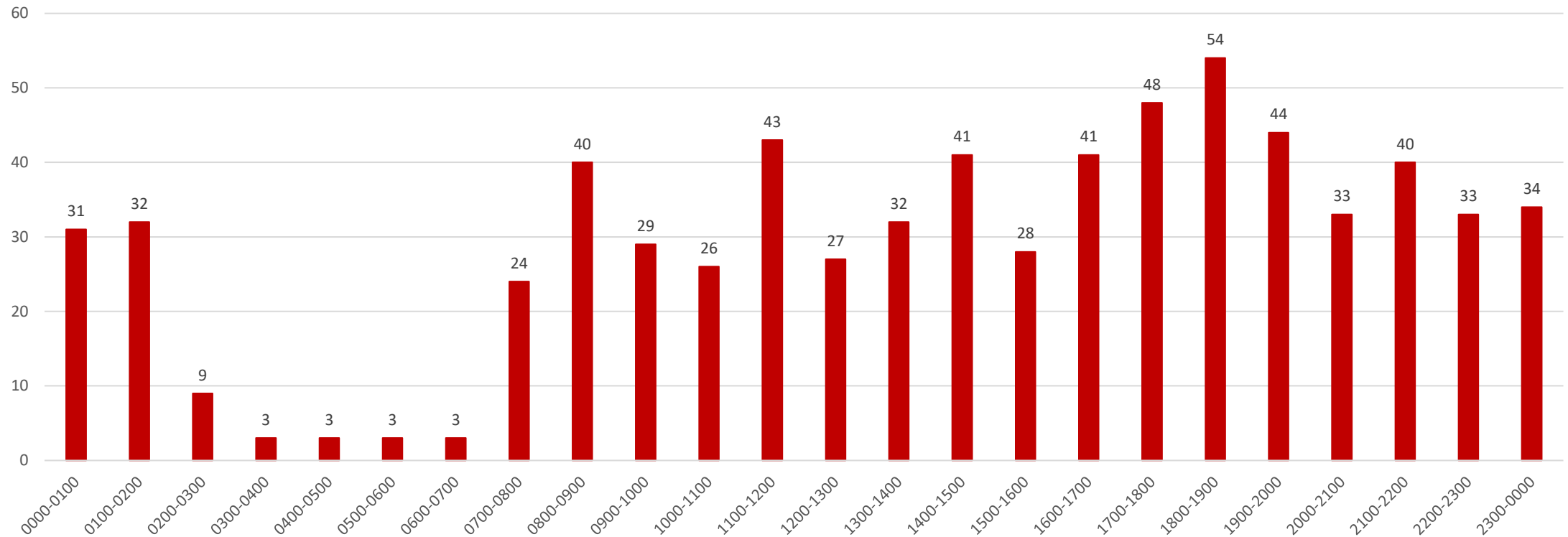
➤ Traffic Problems Up 7 or 64%

➤ REDDI Reports Down 4

May 2020

Call Totals by Hour

Busiest Hours
1800-1900 (54)
1700-1800 (48)

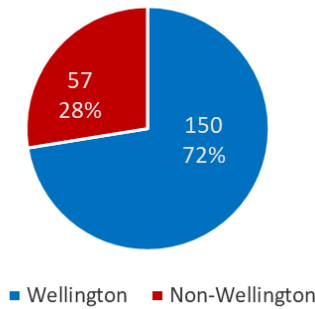


21 Calls between 0200-0700

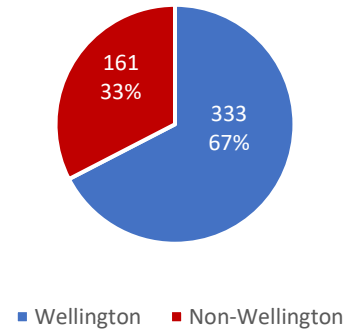
May 2020

Wellington/Non-Wellington Units

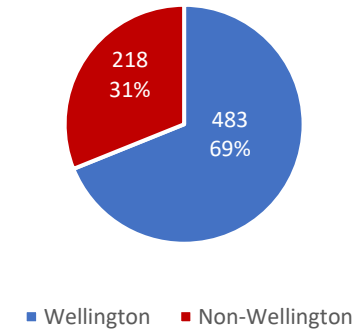
Dispatched



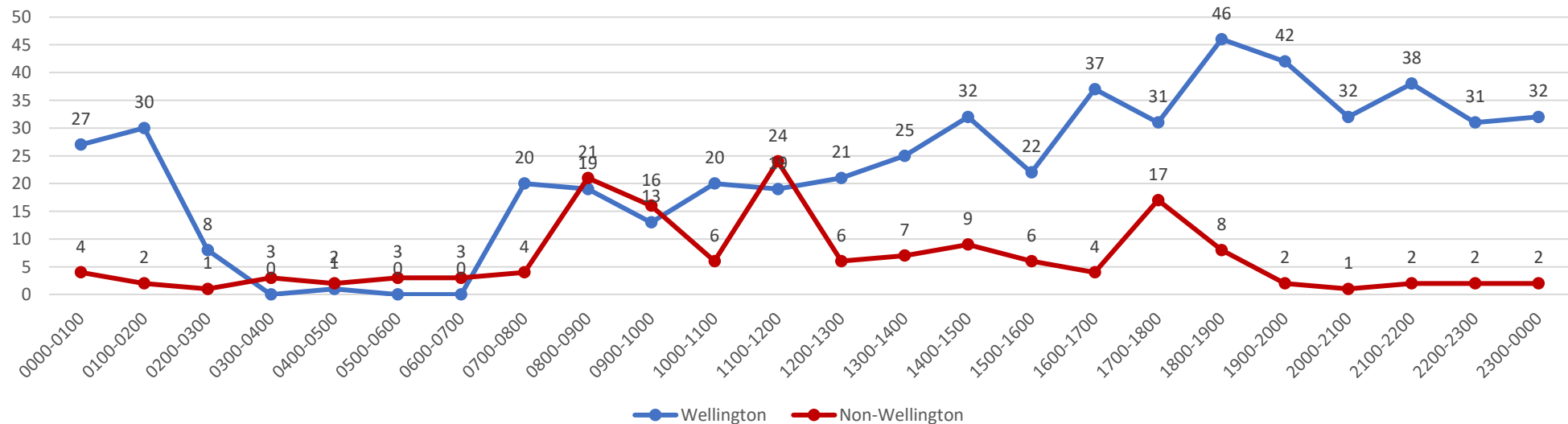
Officer-Initiated



Total Calls



Wellington/Non-Wellington Calls by Hour



May 2020

Response Times / Time on Calls Dispatched Calls Only All Times in Minutes

Average Response Time (All Units)		
High		NA
Medium		18.34
Low		10.47
Avg. Response Time		14.41

Average Time on Calls (All Wellington Calls)			
High			NA
Medium			30.42
Low			37.23
Avg. Time			33.83