

**STANDARD GENERAL CONDITIONS
OF THE CONSTRUCTION CONTRACT**

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in these General Conditions or in other Contract Documents, the terms listed below have the meanings indicated which are applicable to both the singular and plural thereof, and words denoting gender shall include the masculine, feminine and neuter. Said terms are generally capitalized or written in italics, but not always. When used in a context consistent with the definition of a listed-defined term, the term shall have a meaning as defined below whether capitalized or italicized or otherwise. 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 City and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to City 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. *Award*—Authorization by the City Council for the City to enter into an Agreement.
 6. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 7. *Bidder*—The individual or entity who submits a Bid directly to City.
 8. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 9. *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.
 10. *Business Day*—A business day is defined as a day that the City conducts normal business, generally Monday through Friday, except for federal or state holidays observed by the City.
 11. *Calendar Day*—A day consisting of 24 hours measured from midnight to the next midnight.

12. *Change Order*—A document, which is prepared and approved by the City, which is signed by Contractor and City and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.
13. *City*— The City of Fort Worth, Texas, a home-rule municipal corporation, authorized and chartered under the Texas State Statutes, acting by its governing body through its City Manager, his designee, or agents authorized under his behalf, each of which is required by Charter to perform specific duties with responsibility for final enforcement of the contracts involving the City of Fort Worth is by Charter vested in the City Manager and is the entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
14. *City Attorney* – The officially appointed City Attorney of the City of Fort Worth, Texas, or his duly authorized representative.
15. *City Council* - The duly elected and qualified governing body of the City of Fort Worth, Texas.
16. *City Manager* – The officially appointed and authorized City Manager of the City of Fort Worth, Texas, or his duly authorized representative.
17. *Contract Claim*—A demand or assertion by City or Contractor seeking an adjustment of Contract Price or Contract Time, 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 Contract Claim.
18. *Contract*—The entire and integrated written document between the City and Contractor concerning the Work. The Contract contains the Agreement and all Contract Documents and supersedes prior negotiations, representations, or agreements, whether written or oral.
19. *Contract Documents*—Those items so designated in the Agreement. All items listed in the Agreement are Contract Documents. Approved Submittals, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
20. *Contract Price*—The moneys payable by City 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).
21. *Contract Time*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any and (ii) complete the Work so that it is ready for Final Acceptance.
22. *Contractor*—The individual or entity with whom City has entered into the Agreement.
23. *Cost of the Work*—See Paragraph 11.01 of these General Conditions for definition.

24. *Damage Claims* – A demand for money or services arising from the Project or Site from a third party, City or Contractor exclusive of a Contract Claim.
25. *Day or day* – A day, unless otherwise defined, shall mean a Calendar Day.
26. *Director of Aviation* – The officially appointed Director of the Aviation Department of the City of Fort Worth, Texas, or his duly appointed representative, assistant, or agents.
27. *Director of Parks and Community Services* – The officially appointed Director of the Parks and Community Services Department of the City of Fort Worth, Texas, or his duly appointed representative, assistant, or agents.
28. *Director of Planning and Development* – The officially appointed Director of the Planning and Development Department of the City of Fort Worth, Texas, or his duly appointed representative, assistant, or agents.
29. *Director of Transportation Public Works* – The officially appointed Director of the Transportation Public Works Department of the City of Fort Worth, Texas, or his duly appointed representative, assistant, or agents.
30. *Director of Water Department* – The officially appointed Director of the Water Department of the City of Fort Worth, Texas, or his duly appointed representative, assistant, or agents.
31. *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. Submittals are not Drawings as so defined.
32. *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.
33. *Engineer*—The licensed professional engineer or engineering firm registered in the State of Texas performing professional services for the City.
34. *Extra Work* – Additional work made necessary by changes or alterations of the Contract Documents or of quantities or for other reasons for which no prices are provided in the Contract Documents. Extra work shall be part of the Work.
35. *Field Order* — A written order issued by City which requires changes in the Work but which does not involve a change in the Contract Price, Contract Time, or the intent of the Engineer. Field Orders are paid from Field Order Allowances incorporated into the Contract by funded work type at the time of award.
36. *Final Acceptance* – The written notice given by the City to the Contractor that the Work specified in the Contract Documents has been completed to the satisfaction of the City.

37. *Final Inspection* – Inspection carried out by the City to verify that the Contractor has completed the Work, and each and every part or appurtenance thereof, fully, entirely, and in conformance with the Contract Documents.
38. *General Requirements*—Sections of Division 1 of the Contract Documents.
39. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, or other materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
40. *Hazardous Waste*—Hazardous waste is defined as any solid waste listed as hazardous or possesses one or more hazardous characteristics as defined in the federal waste regulations, as amended from time to time.
41. *Laws and Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
42. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
43. *Major Item*—An Item of work included in the Contract Documents that has a total cost equal to or greater than 5% of the original Contract Price or \$25,000 whichever is less.
44. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate Contract Time prior to Final Acceptance of the Work.
45. *Notice of Award*—The written notice by City to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, City will sign and deliver the Agreement.
46. *Notice to Proceed*—A written notice given by City to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform the Work specified in Contract Documents.
47. *PCBs*—Polychlorinated biphenyls.
48. *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.
49. *Plans* – See definition of Drawings.

50. *Project Schedule*—A schedule, prepared and maintained by Contractor, in accordance with the General Requirements, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Time.
51. *Project*—The Work to be performed under the Contract Documents.
52. *Project Manager*—The authorized representative of the City who will be assigned to the Site.
53. *Public Meeting* – An announced meeting conducted by the City to facilitate public participation and to assist the public in gaining an informed view of the Project.
54. *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.
55. *Regular Working Hours* – Hours beginning at 7:00 a.m. and ending at 6:00 p.m., Monday thru Friday (excluding legal holidays).
56. *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.
57. *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.
58. *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.
59. *Site*—Lands or areas indicated in the Contract Documents as being furnished by City upon which the Work is to be performed, including rights-of-way, permits, and easements for access thereto, and such other lands furnished by City which are designated for the use of Contractor.
60. *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. Specifications may be specifically made a part of the Contract Documents by attachment or, if not attached, may be incorporated by reference as indicated in the Table of Contents (Division 00 00 00) of each Project.
61. *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.

62. *Submittals*—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.
63. *Substantial Completion* – The stage in the progress of the Project when the Work is sufficiently complete in accordance with the Contract Documents for Final Inspection.
64. *Successful Bidder*—The Bidder submitting the lowest and most responsive Bid to whom City makes an Award.
65. *Superintendent*— The representative of the Contractor who is available at all times and able to receive instructions from the City and to act for the Contractor.
66. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
67. *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.
68. *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 but not limited to, 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.
69. *Unit Price Work*—See Paragraph 11.03 of these General Conditions for definition.
70. *Weekend Working Hours* – Hours beginning at 9:00 a.m. and ending at 5:00 p.m., Saturday, Sunday or legal holiday, as approved in advance by the City.
71. *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 including any Change Order or Field Order, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
72. *Working Day* – A working day is defined as a day, not including Saturdays, Sundays, or legal holidays authorized by the City for contract purposes, in which weather or other conditions not under the control of the Contractor will permit the performance of the principal unit of work underway for a continuous period of not less than 7 hours between 7 a.m. and 6 p.m.

1.02 Terminology

- A. The words and terms discussed in Paragraph 1.02.B through E 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 judgment by City. 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 City 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).

C. 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 City’s written acceptance.

D. Furnish, Install, Perform, Provide:

1. The word “Furnish” or the word “Install” or the word “Perform” or the word “Provide” or the word “Supply,” or any combination or similar directive or usage thereof, shall mean furnishing and incorporating in the Work including all necessary labor, materials, equipment, and everything necessary to perform the Work indicated, unless specifically limited in the context used.

- E. 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 Copies of Documents

City shall furnish to Contractor one (1) original executed copy and one (1) electronic copy of the Contract Documents, and four (4) additional copies of the Drawings. Additional copies will be furnished upon request at the cost of reproduction.

2.02 Commencement of Contract Time; Notice to Proceed

The Contract Time will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given no earlier than 14 days after the Effective Date of the Agreement, unless agreed to by both parties in writing.

2.03 *Starting the Work*

Contractor shall start to perform the Work on the date when the Contract Time commences to run. No Work shall be done at the Site prior to the date on which the Contract Time commences to run.

2.04 *Before Starting Construction*

Baseline Schedules: Submit in accordance with the Contract Documents, and prior to starting the Work.

2.05 *Preconstruction Conference*

Before any Work at the Site is started, the Contractor shall attend a Preconstruction Conference as specified in the Contract Documents.

2.06 *Public Meeting*

Contractor may not mobilize any equipment, materials or resources to the Site prior to Contractor attending the Public Meeting as scheduled by the City.

2.07 *Initial Acceptance of Schedules*

No progress payment shall be made to Contractor until acceptable schedules are submitted to City in accordance with the Schedule Specification as provided in the Contract Documents.

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 City.
- C. Clarifications and interpretations of the Contract Documents shall be issued by City.
- D. The Specifications may vary in form, format and style. Some Specification sections may be written in varying degrees of streamlined or declarative style and some sections may be relatively narrative by comparison. Omission of such words and phrases as “the Contractor shall,” “in conformity with,” “as shown,” or “as specified” are intentional in streamlined sections. Omitted words and phrases shall be supplied by inference. Similar types of provisions may appear in various parts of a section or articles within a part depending on the format of the

section. The Contractor shall not take advantage of any variation of form, format or style in making Contract Claims.

- E. The cross referencing of specification sections under the subparagraph heading "Related Sections include but are not necessarily limited to:" and elsewhere within each Specification section is provided as an aid and convenience to the Contractor. The Contractor shall not rely on the cross referencing provided and shall be responsible to coordinate the entire Work under the Contract Documents and provide a complete Project whether or not the cross referencing is provided in each section or whether or not the cross referencing is complete.

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 City, Contractor, 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 City, or any of its 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 against all applicable field measurements and conditions. Contractor shall promptly report in writing to City any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from City 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 City in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph

6.17.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 City 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 the provisions of any standard, specification, manual, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents).
2. In case of discrepancies, figured dimensions shall govern over scaled dimensions, Plans shall govern over Specifications, Supplementary Conditions shall govern over General Conditions and Specifications, and quantities shown on the Plans shall govern over those shown in the proposal.

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 a Change Order.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work not involving a change in Contract Price or Contract Time, may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. City's review of a Submittal (subject to the provisions of Paragraph 6.18.C); or
 3. City'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, 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 City 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 City or Engineer to Contractor, or by Contractor to City or Engineer, that may be relied upon are limited to the printed copies included in the Contract Documents (also known as hard copies) and other Specifications referenced and located on the City's on-line electronic document management and collaboration system site. 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. 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. City shall furnish the Site. City 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. City will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities.
1. The City has obtained or anticipates acquisition of and/or access to right-of-way, and/or easements. Any outstanding right-of-way and/or easements are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding right-of-way, and/or easements.
 2. The City has or anticipates removing and/or relocating utilities, and obstructions to the Site. Any outstanding removal or relocation of utilities or obstructions is anticipated in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding utilities or obstructions to be removed, adjusted, and/or relocated by others.
- B. Upon reasonable written request, City 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.

- C. Contractor shall provide for all additional lands and access thereto that may be required for 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 City of explorations and tests of subsurface conditions at or contiguous to the Site; and
2. those drawings known to City 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. Contractor may not make any Contract Claim against City, 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 6.17.A), notify City in writing about such condition.

B. Possible Price and Time Adjustments

Contractor shall not be entitled to any adjustment in the Contract Price or Contract Time if:

1. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to City with respect to Contract Price and Contract Time by the submission of a Bid or becoming bound under a negotiated contract; or
2. the existence of such condition could reasonably have been discovered or revealed as a result of the examination of the Contract Documents or the Site; or
3. Contractor failed to give the written notice as required by Paragraph 4.03.A.

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 City or Engineer by the owners of such Underground Facilities, including City, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. City 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 and adjustment of the Work with the owners of such Underground Facilities, including City, 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 which conflicts with the Work 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 6.17.A), identify the owner of such Underground Facility and give notice to that owner and to City. City will review the discovered Underground Facility and determine the extent, if any, to which a change may be required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. Contractor shall be responsible for the safety and protection of such discovered Underground Facility.

2. If City concludes that a change in the Contract Documents is required, a Change Order may be issued to reflect and document such consequences.
3. Verification of existing utilities, structures, and service lines shall include notification of all utility companies a minimum of 48 hours in advance of construction including exploratory excavation if necessary.

4.05 *Reference Points*

- A. City shall provide engineering surveys to establish reference points for construction, which in City's judgment are necessary to enable Contractor to proceed with the Work. City will provide construction stakes or other customary method of marking to establish line and grades for roadway and utility construction, centerlines and benchmarks for bridgework. Contractor shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations. Contractor shall report to City whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations. The City shall be responsible for the replacement or relocation of reference points or property monuments not carelessly or willfully destroyed by the Contractor. The Contractor shall notify City in advance and with sufficient time to avoid delays.
- B. Whenever, in the opinion of the City, any reference point or monument has been carelessly or willfully destroyed, disturbed, or removed by the Contractor or any of his employees, the full cost for replacing such points plus 25% will be charged against the Contractor, and the full amount will be deducted from payment due the Contractor.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to City 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. Contractor may not make any Contract Claim against City, 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 6.17.A); and (iii) notify City (and promptly thereafter confirm such notice in writing). City may consider the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after City 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 suitable for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed.
- 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 City may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. City may have such deleted portion of the Work performed by City's own forces or others.
- G. *To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless City, 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.G shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.*
- H. 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 *Licensed Sureties and Insurers*

All bonds and insurance required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas 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.

5.02 *Performance, Payment, and Maintenance Bonds*

- A. Contractor shall furnish performance and payment bonds, in accordance with Texas Government Code Chapter 2253 or successor statute, each in an amount equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents.
- B. Contractor shall furnish maintenance bonds in an amount equal to the Contract Price as security to protect the City against any defects in any portion of the Work described in the Contract Documents. Maintenance bonds shall remain in effect for two (2) years after the date of Final Acceptance by the City.
- C. 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 sealed and dated power of attorney which shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- D. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or it ceases to meet the requirements of Paragraph 5.02.C, Contractor shall promptly notify City and shall, within 30 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 and 5.02.C.

5.03 *Certificates of Insurance*

Contractor shall deliver to City, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (other evidence of insurance requested by City or any other additional insured) in at least the minimum amount as specified in the Supplementary Conditions which Contractor is required to purchase and maintain.

1. The certificate of insurance shall document the City, and all identified entities named in the Supplementary Conditions as "Additional Insured" on all liability policies.

2. The Contractor's general liability insurance shall include a, "per project" or "per location", endorsement, which shall be identified in the certificate of insurance provided to the City.
3. The certificate shall be signed by an agent authorized to bind coverage on behalf of the insured, be complete in its entirety, and show complete insurance carrier names as listed in the current A.M. Best Property & Casualty Guide
4. The insurers for all policies must be licensed and/or approved to do business in the State of Texas. Except for workers' compensation, all insurers must have a minimum rating of A-: VII in the current A. M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management. If the rating is below that required, written approval of City is required.
5. All applicable policies shall include a Waiver of Subrogation (Rights of Recovery) in favor of the City. In addition, the Contractor agrees to waive all rights of subrogation against the Engineer (if applicable), and each additional insured identified in the Supplementary Conditions
6. Failure of the City to demand such certificates or other evidence of full compliance with the insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such lines of insurance coverage.
7. If insurance policies are not written for specified coverage limits, an Umbrella or Excess Liability insurance for any differences is required. Excess Liability shall follow form of the primary coverage.
8. Unless otherwise stated, all required insurance shall be written on the "occurrence basis". If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the effective date of the agreement and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. The insurance coverage shall be maintained for the duration of the Contract and for three (3) years following Final Acceptance provided under the Contract Documents or for the warranty period, whichever is longer. An annual certificate of insurance submitted to the City shall evidence such insurance coverage.
9. Policies shall have no exclusions by endorsements, which, neither nullify or amend, the required lines of coverage, nor decrease the limits of said coverage unless such endorsements are approved in writing by the City. In the event a Contract has been bid or executed and the exclusions are determined to be unacceptable or the City desires additional insurance coverage, and the City desires the contractor/engineer to obtain such coverage, the contract price shall be adjusted by the cost of the premium for such additional coverage plus 10%.
10. Any self-insured retention (SIR), in excess of \$25,000.00, affecting required insurance coverage shall be approved by the City in regards to asset value and stockholders' equity. In

lieu of traditional insurance, alternative coverage maintained through insurance pools or risk retention groups, must also be approved by City.

11. Any deductible in excess of \$5,000.00, for any policy that does not provide coverage on a first-dollar basis, must be acceptable to and approved by the City.
12. City, at its sole discretion, reserves the right to review the insurance requirements and to make reasonable adjustments to insurance coverage's and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decision or the claims history of the industry as well as of the contracting party to the City. The City shall be required to provide prior notice of 90 days, and the insurance adjustments shall be incorporated into the Work by Change Order.
13. City shall be entitled, upon written request and without expense, to receive copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modifications of particular policy terms, conditions, limitations, or exclusions necessary to conform the policy and endorsements to the requirements of the Contract. Deletions, revisions, or modifications shall not be required where policy provisions are established by law or regulations binding upon either party or the underwriter on any such policies.
14. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.

5.04 *Contractor's Insurance*

- A. *Workers Compensation and Employers' Liability.* Contractor shall purchase and maintain such insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Texas Labor Code, Ch. 406, as amended), and minimum limits for Employers' Liability 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.
- B. *Commercial General Liability.* Coverage shall include but not be limited to covering liability (bodily injury or property damage) arising from: premises/operations, independent contractors, products/completed operations, personal injury, and liability under an insured contract. Insurance shall be provided on an occurrence basis, and as comprehensive as the current Insurance Services Office (ISO) policy. This insurance shall apply as primary insurance with respect to any other

insurance or self-insurance programs afforded to the City. The Commercial General Liability policy, shall have no exclusions by endorsements that would alter or nullify premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained with the policy, unless the City approves such exclusions in writing.

For construction projects that present a substantial completed operation exposure, the City may require the contractor to maintain completed operations coverage for a minimum of no less than three (3) years following the completion of the project (if identified in the Supplementary Conditions).

- C. *Automobile Liability.* A commercial business auto policy shall provide coverage on "any auto", defined as autos owned, hired and non-owned and provide indemnity for claims for damages because bodily injury or death of any person and or property damage arising out of the work, maintenance or use of any motor vehicle by the 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.
- D. *Railroad Protective Liability.* If any of the work or any warranty work is within the limits of railroad right-of-way, the Contractor shall comply with the requirements identified in the Supplementary Conditions.
- E. *Notification of Policy Cancellation:* Contractor shall immediately notify City upon cancellation or other loss of insurance coverage. Contractor shall stop work until replacement insurance has been procured. There shall be no time credit for days not worked pursuant to this section.

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

If City has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the Contractor in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the City shall so notify the Contractor in writing within 10 Business Days after receipt of the certificates (or other evidence requested). Contractor shall provide to the City such additional information in respect of insurance provided as the City may reasonably request. If Contractor does not purchase or maintain all of the bonds and insurance required by the Contract Documents, the City shall notify the Contractor in writing of such failure prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

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.

- B. At all times during the progress of the Work, Contractor shall assign a competent, English-speaking, Superintendent who shall not be replaced without written notice to City. The Superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communication given to or received from the Superintendent shall be binding on Contractor.
- C. Contractor shall notify the City 24 hours prior to moving areas during the sequence of construction.

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to 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 beyond Regular Working Hours or for Weekend Working Hours without City's written consent (which will not be unreasonably withheld). Written request (by letter or electronic communication) to perform Work:
 1. for beyond Regular Working Hours request must be made by noon at least two (2) Business Days prior
 2. for Weekend Working Hours request must be made by noon of the preceding Thursday
 3. for legal holidays request must be made by noon two Business Days prior to the legal holiday.

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, Contractor required 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 City. If required by City, 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 to be incorporated into the Work 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.
- D. All items of standard equipment to be incorporated into the Work shall be the latest model at the time of bid, unless otherwise specified.

6.04 *Project Schedule*

- A. Contractor shall adhere to the Project Schedule established in accordance with Paragraph 2.07 and the General Requirements as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to City for acceptance (to the extent indicated in Paragraph 2.07 and the General Requirements) proposed adjustments in the Project Schedule that will not result in changing the Contract Time. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 - 2. Contractor shall submit to City a monthly Project Schedule with a monthly progress payment for the duration of the Contract in accordance with the schedule specification 01 32 16.
 - 3. Proposed adjustments in the Project Schedule that will change the Contract Time shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Time 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 of other Suppliers may be submitted to City for review under the circumstances described below.
 - 1. *"Or-Equal" Items:* If in City'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 City as an "or-equal" item, in which case review and approval of the proposed item may, in City'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. the City 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; and
- b. Contractor certifies that, if approved and incorporated into the Work:
- 1) there will be no increase in cost to the City or increase in Contract Time; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in City'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 may be submitted as a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow City 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 City from anyone other than Contractor.
- c. Contractor shall make written application to City for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application shall comply with Section 01 25 00 and:
 - 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;
 - c) be suited to the same use as that specified; and
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of final 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 City for other work on the Project) to adapt the design to the proposed substitute item;

- 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; and
- 3) will identify:
 - a) all variations of the proposed substitute item from that specified;
 - 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 Damage 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 City. Contractor shall submit sufficient information to allow City, in City's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. Contractor shall make written application to City for review in the same manner as those provided in Paragraph 6.05.A.2.

C. City's Evaluation: City 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. City may require Contractor to furnish additional data about the proposed substitute. City will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until City's review is complete, which will be evidenced by a Change Order in the case of a substitute and an accepted Submittal for an "or-equal." City will advise Contractor in writing of its determination.

D. Special Guarantee: City may require Contractor to furnish at Contractor's expense a special performance guarantee, warranty, or other surety with respect to any substitute. *Contractor shall indemnify and hold harmless City and anyone directly or indirectly employed by them from and against any and all claims, damages, losses and expenses (including attorneys fees) arising out of the use of substituted materials or equipment.*

E. City's Cost Reimbursement: City will record City'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 City approves a substitute so proposed or submitted by Contractor, Contractor may be required to reimburse City for evaluating each such proposed substitute. Contractor may also be required to reimburse City for the charges for making changes in the Contract Documents (or in the provisions of any other direct contract with City) 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.

G. *City Substitute Reimbursement*: Costs (savings or charges) attributable to acceptance of a substitute shall be incorporated to the Contract by Change Order.

H. *Time Extensions*: No additional time will be granted for substitutions.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall perform with his own organization, work of a value not less than 35% of the value embraced on the Contract, unless otherwise approved by the City.

B. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, against whom City 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 (excluding those acceptable to City as indicated in Paragraph 6.06.C).

C. The City may from time to time require the use of certain Subcontractors, Suppliers, or other individuals or entities on the project, and will provide such requirements in the Supplementary Conditions.

D. *Minority Business Enterprise Compliance*: It is City policy to ensure the full and equitable participation by Minority Business Enterprises (MBE) in the procurement of goods and services on a contractual basis. If the Contract Documents provide for a MBE goal, Contractor is required to comply with the intent of the City's MBE Ordinance (as amended) by the following:

1. Contractor shall, upon request by City, provide complete and accurate information regarding actual work performed by a MBE on the Contract and payment therefor.

2. Contractor will not make additions, deletions, or substitutions of accepted MBE without written consent of the City. Any unjustified change or deletion shall be a material breach of Contract and may result in debarment in accordance with the procedures outlined in the Ordinance.

3. Contractor shall, upon request by City, allow an audit and/or examination of any books, records, or files in the possession of the Contractor that will substantiate the actual work performed by an MBE. Material misrepresentation of any nature will be grounds for termination of the Contract in accordance with Paragraph 15.02.A. Any such misrepresentation may be grounds for disqualification of Contractor to bid on future contracts with the City for a period of not less than three years.

E. Contractor shall be fully responsible to City 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 City and any such Subcontractor, Supplier or other individual or entity; nor
 2. shall create any obligation on the part of City 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.
- F. 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.
- G. All Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work shall communicate with City through Contractor.
- H. 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 City.

6.07 *Wage Rates*

- A. *Duty to pay Prevailing Wage Rates.* The Contractor shall comply with all requirements of Chapter 2258, Texas Government Code (as amended), including the payment of not less than the rates determined by the City Council of the City of Fort Worth to be the prevailing wage rates in accordance with Chapter 2258. Such prevailing wage rates are included in these Contract Documents.
- B. *Penalty for Violation.* A Contractor or any Subcontractor who does not pay the prevailing wage shall, upon demand made by the City, pay to the City \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the prevailing wage rates stipulated in these contract documents. This penalty shall be retained by the City to offset its administrative costs, pursuant to Texas Government Code 2258.023.
- C. *Complaints of Violations and City Determination of Good Cause.* On receipt of information, including a complaint by a worker, concerning an alleged violation of 2258.023, Texas Government Code, by a Contractor or Subcontractor, the City shall make an initial determination, before the 31st day after the date the City receives the information, as to whether good cause exists to believe that the violation occurred. The City shall notify in writing the Contractor or Subcontractor and any affected worker of its initial determination. Upon the City's determination that there is good cause to believe the Contractor or Subcontractor has violated Chapter 2258, the City shall retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage rates, such amounts being subtracted from successive progress payments pending a final determination of the violation.

- D. *Arbitration Required if Violation Not Resolved.* An issue relating to an alleged violation of Section 2258.023, Texas Government Code, including a penalty owed to the City or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the Contractor or Subcontractor and any affected worker does not resolve the issue by agreement before the 15th day after the date the City makes its initial determination pursuant to Paragraph C above. If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required, a district court shall appoint an arbitrator on the petition of any of the persons. The City is not a party in the arbitration. The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.
- E. *Records to be Maintained.* The Contractor and each Subcontractor shall, for a period of three (3) years following the date of acceptance of the work, maintain records that show (i) the name and occupation of each worker employed by the Contractor in the construction of the Work provided for in this Contract; and (ii) the actual per diem wages paid to each worker. The records shall be open at all reasonable hours for inspection by the City. The provisions of Paragraph 6.23, Right to Audit, shall pertain to this inspection.
- F. *Progress Payments.* With each progress payment or payroll period, whichever is less, the Contractor shall submit an affidavit stating that the Contractor has complied with the requirements of Chapter 2258, Texas Government Code.
- G. *Posting of Wage Rates.* The Contractor shall post prevailing wage rates in a conspicuous place at all times.
- H. *Subcontractor Compliance.* The Contractor shall include in its subcontracts and/or shall otherwise require all of its Subcontractors to comply with Paragraphs A through G above.

6.08 *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 City, 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 City in the Contract Documents. Failure of the City to disclose such information does not relieve the Contractor from its obligations to pay for the use of said fees or royalties to others.
- B. *To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless City, 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.

6.09 *Permits and Utilities*

- A. *Contractor obtained permits and licenses.* Contractor shall obtain and pay for all construction permits and licenses except those provided for in the Supplementary Conditions or Contract Documents. City 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, except for permits provided by the City as specified in 6.09.B. City shall pay all charges of utility owners for connections for providing permanent service to the Work.
- B. *City obtained permits and licenses.* City will obtain and pay for all permits and licenses as provided for in the Supplementary Conditions or Contract Documents. It will be the Contractor's responsibility to carry out the provisions of the permit. If the Contractor initiates changes to the Contract and the City approves the changes, the Contractor is responsible for obtaining clearances and coordinating with the appropriate regulatory agency. The City will not reimburse the Contractor for any cost associated with these requirements of any City acquired permit. The following are permits the City will obtain if required:
1. Texas Department of Transportation Permits
 2. U.S. Army Corps of Engineers Permits
 3. Texas Commission on Environmental Quality Permits
 4. Railroad Company Permits
- C. *Outstanding permits and licenses.* The City anticipates acquisition of and/or access to permits and licenses. Any outstanding permits and licenses are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding permits and licenses.

6.10 *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, the City shall not 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 3.02.

- C. Changes in Laws or Regulations not known at the time of opening of Bids having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Time.

6.11 Taxes

- A. On a contract awarded by the City, an organization which qualifies for exemption pursuant to Texas Tax Code, Subchapter H, Sections 151.301-335 (as amended), the Contractor may purchase, rent or lease all materials, supplies and equipment used or consumed in the performance of this contract by issuing to his supplier an exemption certificate in lieu of the tax, said exemption certificate to comply with State Comptroller's Ruling .007. Any such exemption certificate issued to the Contractor in lieu of the tax shall be subject to and shall comply with the provision of State Comptroller's Ruling .011, and any other applicable rulings pertaining to the Texas Tax Code, Subchapter H.
- B. Texas Tax permits and information may be obtained from:
1. Comptroller of Public Accounts
Sales Tax Division
Capitol Station
Austin, TX 78711; or
 2. <http://www.window.state.tx.us/taxinfo/taxforms/93-forms.html>

6.12 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. At any time when, in the judgment of the City, the Contractor has obstructed or closed or is carrying on operations in a portion of a street, right-of-way, or easement greater than is necessary for proper execution of the Work, the City may require the Contractor to finish the section on which operations are in progress before work is commenced on any additional area of the Site.

3. Should any Damage Claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly attempt to resolve the Damage Claim.
 4. Pursuant to Paragraph 6.21, Contractor shall indemnify and hold harmless City, from and against all claims, costs, losses, and damages arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against City.
- 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. *Site Maintenance Cleaning:* 24 hours after written notice is given to the Contractor that the clean-up on the job site is proceeding in a manner unsatisfactory to the City, if the Contractor fails to correct the unsatisfactory procedure, the City may take such direct action as the City deems appropriate to correct the clean-up deficiencies cited to the Contractor in the written notice (by letter or electronic communication), and the costs of such direct action, plus 25 % of such costs, shall be deducted from the monies due or to become due to the Contractor.
- D. *Final Site Cleaning:* Prior to Final Acceptance of the Work Contractor shall clean the Site and the Work and make it ready for utilization by City or adjacent property 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 or better all property disturbed by the Work.
- E. *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.

6.13 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site or in a place designated by the Contractor and approved by the City, one (1) record copy of all Drawings, Specifications, Addenda, Change Orders, 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 accepted Submittals will be available to City for reference. Upon completion of the Work, these record documents, any operation and maintenance manuals, and Submittals will be delivered to City prior to Final Inspection. Contractor shall include accurate locations for buried and imbedded items.

6.14 *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 City's safety programs, if any.
- D. Contractor shall inform City of the specific requirements of Contractor's safety program, if any, with which City's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.14.A.2 or 6.14.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.
- 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 City has accepted the Work.

6.15 *Safety Representative*

Contractor shall inform City in writing of Contractor's designated safety representative at the Site.

6.16 *Hazard Communication Programs*

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 in accordance with Laws or Regulations.

6.17 *Emergencies and/or Rectification*

- 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 City 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 City determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Change Order may be issued.

- B. Should the Contractor fail to respond to a request from the City to rectify any discrepancies, omissions, or correction necessary to conform with the requirements of the Contract Documents, the City shall give the Contractor written notice that such work or changes are to be performed. The written notice shall direct attention to the discrepant condition and request the Contractor to take remedial action to correct the condition. In the event the Contractor does not take positive steps to fulfill this written request, or does not show just cause for not taking the proper action, within 24 hours, the City may take such remedial action with City forces or by contract. The City shall deduct an amount equal to the entire costs for such remedial action, plus 25%, from any funds due or become due the Contractor on the Project.

6.18 *Submittals*

- A. Contractor shall submit required Submittals to City for review and acceptance in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as City may require.
1. Submit number of copies specified in the General Requirements.
 2. Data shown on the Submittals will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show City the services, materials, and equipment Contractor proposes to provide and to enable City to review the information for the limited purposes required by Paragraph 6.18.C.
 3. Submittals submitted as herein provided by Contractor and reviewed by City for conformance with the design concept shall be executed in conformity with the Contract Documents unless otherwise required by City.
 4. When Submittals are submitted for the purpose of showing the installation in greater detail, their review shall not excuse Contractor from requirements shown on the Drawings and Specifications.
 5. For-Information-Only submittals upon which the City is not expected to conduct review or take responsive action may be so identified in the Contract Documents.
 6. Submit required number of Samples specified in the Specifications.
 7. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as City may require to enable City to review the submittal for the limited purposes required by Paragraph 6.18.C.

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

C. *City's Review:*

1. City will provide timely review of required Submittals in accordance with the Schedule of Submittals acceptable to City. City's review and acceptance 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. City's review and acceptance 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 acceptance of a separate item as such will not indicate approval of the assembly in which the item functions.
3. City's review and acceptance shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Section 01 33 00 and City has given written acceptance of each such variation by specific written notation thereof incorporated in or accompanying the Submittal. City's review and acceptance shall not relieve Contractor from responsibility for complying with the requirements of the Contract Documents.

6.19 *Continuing the Work*

Except as otherwise provided, Contractor shall carry on the Work and adhere to the Project Schedule during all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as City and Contractor may otherwise agree in writing.

6.20 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to City that all Work will be in accordance with the Contract Documents and will not be defective. City 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 City;
 2. recommendation or payment by City of any progress or final payment;
 3. the issuance of a certificate of Final Acceptance by City or any payment related thereto by City;
 4. use or occupancy of the Work or any part thereof by City;
 5. any review and acceptance of a Submittal by City;
 6. any inspection, test, or approval by others; or
 7. any correction of defective Work by City.
- D. The Contractor shall remedy any defects or damages in the Work and pay for any damage to other work or property resulting therefrom which shall appear within a period of two (2) years from the date of Final Acceptance of the Work unless a longer period is specified and shall furnish a good and sufficient maintenance bond, complying with the requirements of Article 5.02.B. The City will give notice of observed defects with reasonable promptness.

6.21 Indemnification

- A. Contractor covenants and agrees to indemnify, hold harmless and defend, at its own expense, the City, its officers, servants and employees, from and against any and all claims arising out of, or alleged to arise out of, the work and services to be performed by the Contractor, its officers, agents, employees, subcontractors, licensees or invitees under this Contract. **THIS INDEMNIFICATION PROVISION IS SPECIFICALLY INTENDED TO OPERATE AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY.** This indemnity provision is intended to include, without limitation, indemnity for costs, expenses and legal fees incurred by the City in defending against such claims and causes of actions.
- B. Contractor covenants and agrees to indemnify and hold harmless, at its own expense, the City, its officers, servants and employees, from and against any and all loss, damage or destruction of property of the City, arising out of, or alleged to arise out of, the work and services to be performed by the Contractor, its officers, agents, employees, subcontractors, licensees or invitees under this Contract. **THIS INDEMNIFICATION PROVISION IS**

SPECIFICALLY INTENDED TO OPERATE AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY.

6.22 *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.
- 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, City 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, and Submittals prepared by such professional. 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 City.
- C. City shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided City has specified to Contractor performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.22, City's review and acceptance 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. City's review and acceptance of Submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.18.C.

6.23 *Right to Audit*

- A. The Contractor agrees that the City shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers, and records of the Contractor involving transactions relating to this Contract. Contractor agrees that the City shall have access during Regular Working Hours to all necessary Contractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this Paragraph. The City shall give Contractor reasonable advance notice of intended audits.
- B. Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the City shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers, and records of such Subcontractor, involving transactions to the subcontract, and further, that City shall have access during Regular Working Hours to all

Subcontractor facilities, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this Paragraph. The City shall give Subcontractor reasonable advance notice of intended audits.

- C. Contractor and Subcontractor agree to photocopy such documents as may be requested by the City. The City agrees to reimburse Contractor for the cost of the copies as follows at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

6.24 *Nondiscrimination*

- A. The City is responsible for operating Public Transportation Programs and implementing transit-related projects, which are funded in part with Federal financial assistance awarded by the U.S. Department of Transportation and the Federal Transit Administration (FTA), without discriminating against any person in the United States on the basis of race, color, or national origin.
- B. *Title VI, Civil Rights Act of 1964 as amended:* Contractor shall comply with the requirements of the Act and the Regulations as further defined in the Supplementary Conditions for any project receiving Federal assistance.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. City may perform other work related to the Project at the Site with City's employees, or other City contractors, 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 written notice thereof will be given to Contractor prior to starting any such other work; and
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and City, if City is performing other work with City's employees or other City contractors, 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 City and the others whose work will be affected.
- 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 City 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 in the work provided by others.

7.02 *Coordination*

- A. If City 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, City shall have authority for such coordination.

ARTICLE 8 – CITY’S RESPONSIBILITIES

8.01 *Communications to Contractor*

Except as otherwise provided in the Supplementary Conditions, City shall issue all communications to Contractor.

8.02 *Furnish Data*

City shall timely furnish the data required under the Contract Documents.

8.03 *Pay When Due*

City shall make payments to Contractor in accordance with Article 14.

8.04 *Lands and Easements; Reports and Tests*

City’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 City’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 or contiguous to the Site that have been utilized by City in preparing the Contract Documents.

8.05 *Change Orders*

City shall execute Change Orders in accordance with Paragraph 10.03.

8.06 *Inspections, Tests, and Approvals*

City’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.

8.07 *Limitations on City's Responsibilities*

- A. The City 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. City will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- B. City will notify the Contractor of applicable safety plans pursuant to Paragraph 6.14.

8.08 *Undisclosed Hazardous Environmental Condition*

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

8.09 *Compliance with Safety Program*

While at the Site, City's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which City has been informed pursuant to Paragraph 6.14.

ARTICLE 9 – CITY'S OBSERVATION STATUS DURING CONSTRUCTION

9.01 *City's Project Manager*

City will provide one or more Project Manager(s) during the construction period. The duties and responsibilities and the limitations of authority of City's Project Manager during construction are set forth in the Contract Documents. The City's Project Manager for this Contract is identified in the Supplementary Conditions.

9.02 *Visits to Site*

- A. City's Project Manager will make visits to the Site at intervals appropriate to the various stages of construction as City deems necessary in order to observe 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, City's Project Manager will determine, in general, if the Work is proceeding in accordance with the Contract Documents. City's Project Manager will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. City's Project Manager's efforts will be directed toward providing City a greater degree of confidence that the completed Work will conform generally to the Contract Documents.
- B. City's Project Manager's visits and observations are subject to all the limitations on authority and responsibility in the Contract Documents including those set forth in Paragraph 8.07.

9.03 *Authorized Variations in Work*

City's Project Manager 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 Time 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 City and also on Contractor, who shall perform the Work involved promptly.

9.04 *Rejecting Defective Work*

City will have authority to reject Work which City's Project Manager believes to be defective, or 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. City will have authority to conduct special inspection or testing of the Work as provided in Article 13, whether or not the Work is fabricated, installed, or completed.

9.05 *Determinations for Work Performed*

Contractor will determine the actual quantities and classifications of Work performed. City's Project Manager will review with Contractor the preliminary determinations on such matters before rendering a written recommendation. City's written decision will be final (except as modified to reflect changed factual conditions or more accurate data).

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

- A. City will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder.
- B. City will render a written decision on any issue referred.
- C. City's written decision on the issue referred will be final and binding on the Contractor, subject to the provisions of Paragraph 10.06.

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

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, City may, at any time or from time to time, order Extra Work. Upon notice of such Extra Work, 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). Extra Work shall be memorialized by a Change Order which may or may not precede an order of Extra work.
- B. For minor changes of Work not requiring changes to Contract Time or Contract Price, a Field Order may be issued by the City.

10.02 *Unauthorized Changes in the Work*

Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Time 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 6.17.

10.03 *Execution of Change Orders*

A. City and Contractor shall execute appropriate Change Orders covering:

1. changes in the Work which are: (i) ordered by City pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08 or City's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
2. changes in the Contract Price or Contract Time which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed.

10.04 *Extra Work*

- A. Should a difference arise as to what does or does not constitute Extra Work, or as to the payment thereof, and the City insists upon its performance, the Contractor shall proceed with the work after making written request for written orders and shall keep accurate account of the actual reasonable cost thereof. Contract Claims regarding Extra Work shall be made pursuant to Paragraph 10.06.
- B. The Contractor shall furnish the City such installation records of all deviations from the original Contract Documents as may be necessary to enable the City to prepare for permanent record a corrected set of plans showing the actual installation.
- C. The compensation agreed upon for Extra Work whether or not initiated by a Change Order shall be a full, complete and final payment for all costs Contractor incurs as a result or relating to the change or Extra Work, whether said costs are known, unknown, foreseen or unforeseen at that time, including without limitation, any costs for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of the change or Extra Work.

10.05 *Notification to Surety*

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 Time), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted by the Contractor to reflect the effect of any such change.

10.06 *Contract Claims Process*

- A. *City's Decision Required:* All Contract Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the City for decision. A decision by City shall be required as a condition precedent to any exercise by Contractor of any rights or remedies he may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Contract Claims.
- B. *Notice:*
1. Written notice stating the general nature of each Contract Claim shall be delivered by the Contractor to City no later than 15 days after the start of the event giving rise thereto. The responsibility to substantiate a Contract Claim shall rest with the party making the Contract Claim.
 2. Notice of the amount or extent of the Contract Claim, with supporting data shall be delivered to the City on or before 45 days from the start of the event giving rise thereto (unless the City allows additional time for Contractor to submit additional or more accurate data in support of such Contract Claim).
 3. A Contract Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.
 4. A Contract Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.
 5. Each Contract Claim shall be accompanied by Contractor's written statement that the adjustment claimed is the entire adjustment to which the Contractor believes it is entitled as a result of said event.
 6. The City shall submit any response to the Contractor within 30 days after receipt of the claimant's last submittal (unless Contract allows additional time).
- C. *City's Action:* City will review each Contract Claim and, within 30 days after receipt of the last submittal of the Contractor, if any, take one of the following actions in writing:
1. deny the Contract Claim in whole or in part;
 2. approve the Contract Claim; or
 3. notify the Contractor that the City is unable to resolve the Contract Claim if, in the City's sole discretion, it would be inappropriate for the City to do so. For purposes of further resolution of the Contract Claim, such notice shall be deemed a denial.

- D. City's written action under Paragraph 10.06.C will be final and binding, unless City or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- E. No Contract Claim for an adjustment in Contract Price or Contract Time will be valid if not submitted in accordance with this Paragraph 10.06.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK; PLANS QUANTITY MEASUREMENT

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, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work. Such costs shall not include any of the costs itemized in Paragraph 11.01.B, and shall include but not be limited to 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 City 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;
 - a. salaries with a 55% markup, or
 - b. 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, Weekend Working Hours, or legal holidays, shall be included in the above to the extent authorized by City.
 - 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.
 - 3. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by City, 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.

4. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from subcontractors acceptable to City and Contractor and shall deliver such bids to City, who will then determine, 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.
5. 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.
6. 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. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable not covered under Paragraph 6.11, as imposed by Laws and Regulations.
 - d. 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.
 - e. 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, 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 City. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - f. The cost of utilities, fuel, and sanitary facilities at the Site.
 - g. Minor expenses such as telegrams, long distance telephone calls, telephone and communication services at the Site, express and courier services, and similar petty cash items in connection with the Work.

h. 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.

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 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 City an itemized cost breakdown together with supporting data.

11.02 Allowances

A. *Specified Allowance:* 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 City.

B. *Pre-bid Allowances:*

1. Contractor agrees that:

- a. the pre-bid allowances include the cost to Contractor 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 pre-bid allowances have been included in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance:* Contractor agrees that a contingency allowance, if any, is for the sole use of City.
- D. Prior to final payment, an appropriate Change Order will be issued 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 City subject to the provisions of Paragraph 9.05.
- 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. Work described in the Contract Documents, or reasonably inferred as required for a functionally complete installation, but not identified in the listing of unit price items shall be considered incidental to unit price work listed and the cost of incidental work included as part of the unit price.
- D. City may make an adjustment in the Contract Price in accordance with Paragraph 12.01 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.
- E. *Increased or Decreased Quantities:* The City reserves the right to order Extra Work in accordance with Paragraph 10.01.
 1. If the changes in quantities or the alterations do not significantly change the character of work under the Contract Documents, the altered work will be paid for at the Contract unit price.

2. If the changes in quantities or alterations significantly change the character of work, the Contract will be amended by a Change Order.
3. If no unit prices exist, this will be considered Extra Work and the Contract will be amended by a Change Order in accordance with Article 12.
4. A significant change in the character of work occurs when:
 - a. the character of work for any Item as altered differs materially in kind or nature from that in the Contract or
 - b. a Major Item of work varies by more than 25% from the original Contract quantity.
5. When the quantity of work to be done under any Major Item of the Contract is more than 125% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price on the portion of the work that is above 125%.
6. When the quantity of work to be done under any Major Item of the Contract is less than 75% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price.

11.04 *Plans Quantity Measurement*

- A. Plans quantities may or may not represent the exact quantity of work performed or material moved, handled, or placed during the execution of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised by the governing Section or this Article.
- B. If the quantity measured as outlined under "Price and Payment Procedures" varies by more than 25% (or as stipulated under "Price and Payment Procedures" for specific Items) from the total estimated quantity for an individual Item originally shown in the Contract Documents, an adjustment may be made to the quantity of authorized work done for payment purposes. The party to the Contract requesting the adjustment will provide field measurements and calculations showing the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that Item, except as provided for in Article 10.
- C. When quantities are revised by a change in design approved by the City, by Change Order, or to correct an error, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount involved in the change, and the 25% variance will apply to the new plans quantity.
- D. If the total Contract quantity multiplied by the unit price bid for an individual Item is less than \$250 and the Item is not originally a plans quantity Item, then the Item may be paid as a plans quantity Item if the City and Contractor agree in writing to fix the final quantity as a plans quantity.

- E. For callout work or non-site specific Contracts, the plans quantity measurement requirements are not applicable.

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

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order.
- B. The value of any Work covered by a Change Order 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 or unit price (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2), and shall include the cost of any secondary impacts that are foreseeable at the time of pricing the cost of Extra Work; or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum or unit price 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 additional 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, 11.01.A.2, and 11.01.A.3, the Contractor's additional fee shall be 15 percent except for:
 - 1) rental fees for Contractor's own equipment using standard rental rates;
 - 2) bonds and insurance;
 - b. for costs incurred under Paragraph 11.01.A.4 and 11.01.A.5, the Contractor's fee shall be five percent (5%);
 - 1) 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 (5%) of the amount paid to the next lower tier Subcontractor, however in no case shall the cumulative total of fees paid be in excess of 25%;

- c. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.6, and 11.01.B;
- d. the amount of credit to be allowed by Contractor to City 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 (5%) of such net decrease.

12.02 *Change of Contract Time*

- A. The Contract Time may only be changed by a Change Order.
- B. No extension of the Contract Time will be allowed for Extra Work or for claimed delay unless the Extra Work contemplated or claimed delay is shown to be on the critical path of the Project Schedule or Contractor can show by Critical Path Method analysis how the Extra Work or claimed delay adversely affects the critical path.

12.03 *Delays*

- A. Where Contractor is reasonably delayed in the performance or completion of any part of the Work within the Contract Time due to delay beyond the control of Contractor, the Contract Time may be extended in an amount equal to the time lost due to such delay if a Contract Claim is made therefor. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by City, 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. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph.
- B. If Contractor is delayed, City 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.
- C. Contractor shall not be entitled to an adjustment in Contract Price or Contract Time 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.
- D. The Contractor shall receive no compensation for delays or hindrances to the Work, except when direct and unavoidable extra cost to the Contractor is caused by the failure of the City to provide information or material, if any, which is to be furnished by the City.

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

13.01 Notice of Defects

Notice of all defective Work of which City 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

City, 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 City 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. If Contract Documents, Laws or Regulations of any public body having jurisdiction require any of the Work (or part thereof) to be inspected, tested, or approved, Contractor shall assume full responsibility for arranging and obtaining such independent inspections, tests, retests or approvals, pay all costs in connection therewith, and furnish City the required certificates of inspection or approval; excepting, however, those fees specifically identified in the Supplementary Conditions or any Texas Department of Licensure and Regulation (TDLR) inspections, which shall be paid as described in the Supplementary Conditions.
- C. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, re-tests, or approvals required for City'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, re-tests, or approvals shall be performed by organizations acceptable to City.
- D. City may arrange for the services of an independent testing laboratory ("Testing Lab") to perform any inspections or tests ("Testing") for any part of the Work, as determined solely by City.
 - 1. City will coordinate such Testing to the extent possible, with Contractor;
 - 2. Should any Testing under this Section 13.03 D result in a "fail", "did not pass" or other similar negative result, the Contractor shall be responsible for paying for any and all retests. Contractor's cancellation without cause of City initiated Testing shall be deemed a negative result and require a retest.

3. Any amounts owed for any retest under this Section 13.03 D shall be paid directly to the Testing Lab by Contractor. City will forward all invoices for retests to Contractor.
4. If Contractor fails to pay the Testing Lab, City will not issue Final Payment until the Testing Lab is paid.
- 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 City, Contractor shall, if requested by City, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense.
- G. Contractor shall have the right to make a Contract Claim regarding any retest or invoice issued under Section 13.03 D.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the Contract Documents or specific instructions by the City, it must, if requested by City, be uncovered for City's observation and replaced at Contractor's expense.
- B. If City considers it necessary or advisable that covered Work be observed by City or inspected or tested by others, Contractor, at City's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as City may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
 1. 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 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); or City shall be entitled to accept defective Work in accordance with Paragraph 13.08 in which case Contractor shall still be responsible for all costs associated with exposing, observing, and testing the defective Work.
 2. 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 Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction.

13.05 *City May Stop the Work*

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, City may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of City to stop the Work shall not give rise to any duty on the part of City 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 pursuant to an acceptable schedule, whether or not fabricated, installed, or completed, or, if the Work has been rejected by City, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, additional testing, 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). Failure to require the removal of any defective Work shall not constitute acceptance of such Work.
- 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 City's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within two (2) years after the date of Final Acceptance (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by 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 City or permitted by Laws and Regulations as contemplated in Paragraph 6.10.A is found to be defective, Contractor shall promptly, without cost to City and in accordance with City'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 City, 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 City's written instructions, or in an emergency where delay would cause serious risk of loss or damage, City 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 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 Final Acceptance of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Contract Documents.
- 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 may be required to be extended for an additional period of one year after the end of the initial correction period. City shall provide 30 days written notice to Contractor should such additional warranty coverage be required. Contractor may dispute this requirement by filing a Contract Claim, pursuant to Paragraph 10.06.
- 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*

If, instead of requiring correction or removal and replacement of defective Work, City prefers to accept it, City 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 other dispute resolution costs) attributable to City's evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to Final Acceptance, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted.

13.09. *City May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from City to correct defective Work, or to remove and replace rejected Work as required by City 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, City may, after seven (7) days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, City shall proceed expeditiously. In connection with such corrective or remedial action, City 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, and incorporate in the Work all materials and equipment incorporated in the Work, stored at the Site or for which City has paid Contractor but which are stored elsewhere. Contractor shall allow City, City's representatives, agents, consultants, employees, and City's other contractors, access to the Site to enable City 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 other dispute resolution

costs) incurred or sustained by City 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 City shall be entitled to an appropriate decrease in the Contract Price.

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

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

The Schedule of Values for lump sum contracts established as provided in Paragraph 2.07 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to City. 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. Contractor is responsible for providing all information as required to become a vendor of the City.
2. At least 20 days before the date established in the General Requirements for each progress payment, Contractor shall submit to City 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.
3. 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 City has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate insurance or other arrangements to protect City's interest therein, all of which must be satisfactory to City.
4. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that 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.
5. The amount of retainage with respect to progress payments will be as described in subsection C. unless otherwise stipulated in the Contract Documents.

B. Review of Applications:

1. City will, after receipt of each Application for Payment, either indicate in writing a recommendation of payment or return the Application to Contractor indicating reasons for refusing payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. City's processing of any payment requested in an Application for Payment will be based on City's observations of the executed Work, and on City's review of the Application for Payment and the accompanying data and schedules, that to the best of City's knowledge:
 - 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 Final Acceptance, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Work performed under Paragraph 9.05, and any other qualifications stated in the recommendation).
3. Processing any such payment 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 City 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 City or entitle City to withhold payment to Contractor; or
 - c. Contractor has complied with Laws and Regulations applicable to Contractor's performance of the Work.
4. City may refuse to process the whole or any part of any payment because of subsequently discovered evidence or the results of subsequent inspections or tests, and revise or revoke any such payment previously made, to such extent as may be necessary to protect City from loss because:
 - a. the Work is defective or completed Work has been damaged by the Contractor or subcontractors requiring correction or replacement;
 - b. discrepancies in quantities contained in previous applications for payment;
 - c. the Contract Price has been reduced by Change Orders;
 - d. City has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

e. City has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Retainage:*

1. For contracts less than \$400,000 at the time of execution, retainage shall be ten percent (10%).
2. For contracts greater than \$400,000 at the time of execution, retainage shall be five percent (5%).

D. *Liquidated Damages.* For each calendar day that any work shall remain uncompleted after the time specified in the Contract Documents, the sum per day specified in the Agreement will be assessed against the monies due the Contractor, not as a penalty, but as damages suffered by the City.

E. *Payment:* Contractor will be paid pursuant to the requirements of this Article 14 and payment will become due in accordance with the Contract Documents.

F. *Reduction in Payment:*

1. City may refuse to make payment of the amount requested because:
 - a. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to City to secure the satisfaction and discharge of such Liens;
 - b. there are other items entitling City to a set-off against the amount recommended; or
 - c. City has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.4.a through 14.02.B.4.e or Paragraph 15.02.A.
2. If City refuses to make payment of the amount requested, City will give Contractor written notice stating the reasons for such action and pay Contractor any amount remaining after deduction of the amount so withheld. City shall pay Contractor the amount so withheld, or any adjustment thereto agreed to by City and Contractor, when Contractor remedies the reasons for such action.

14.03 *Contractor's Warranty of Title*

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 City no later than the time of payment free and clear of all Liens.

14.04 *Partial Utilization*

- A. Prior to Final Acceptance of all the Work, City may use or occupy any part of the Work which has specifically been identified in the Contract Documents, or which City determines constitutes a separately functioning and usable part of the Work that can be used for its intended purpose without significant interference with Contractor's performance of the remainder of the Work. City at any time may notify Contractor in writing to permit City to use or occupy any such part of the Work which City determines to be ready for its intended use, subject to the following conditions:
1. Contractor at any time may notify City in writing that Contractor considers any such part of the Work ready for its intended use.
 2. Within a reasonable time after notification as enumerated in Paragraph 14.05.A.1, City and Contractor shall make an inspection of that part of the Work to determine its status of completion. If City does not consider that part of the Work to be substantially complete, City will notify Contractor in writing giving the reasons therefor.
 3. Partial Utilization will not constitute Final Acceptance by City.

14.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work is Substantially Complete in accordance with the Contract Documents:
1. Within 10 days, City will schedule a Final Inspection with Contractor.
 2. City will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective ("Punch List Items"). Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.
- B. No time charge will be made against the Contractor between said date of notification to the City of Substantial Completion and the date of Final Inspection.
1. Should the City determine that the Work is not ready for Final Inspection, City will notify the Contractor in writing of the reasons and Contract Time will resume.
 2. Should the City concur that Substantial Completion has been achieved with the exception of any Punch List Items, Contract Time will resume for the duration it takes for Contractor to achieve Final Acceptance.

14.06 *Final Acceptance*

Upon completion by Contractor to City's satisfaction, of any additional Work identified in the Final Inspection, City will issue to Contractor a letter of Final Acceptance.

14.07 *Final Payment*

A. *Application for Payment:*

1. Upon Final Acceptance, and in the opinion of City, Contractor may make an application for final payment following the procedure for progress payments in accordance with the Contract Documents.
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 5.03;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all pending or released Damage Claims against City that Contractor believes are unsettled; and
 - d. affidavits of payments and complete and legally effective releases or waivers (satisfactory to City) of all Lien rights arising out of or Liens filed in connection with the Work.

B. *Payment Becomes Due:*

1. After City's acceptance of the Application for Payment and accompanying documentation, requested by Contractor, less previous payments made and any sum City is entitled, including but not limited to liquidated damages, will become due and payable.
2. After all Damage Claims have been resolved:
 - a. directly by the Contractor or;
 - b. Contractor provides evidence that the Damage Claim has been reported to Contractor's insurance provider for resolution.
3. The making of the final payment by the City shall not relieve the Contractor of any guarantees or other requirements of the Contract Documents which specifically continue thereafter.

14.08 *Final Completion Delayed and Partial Retainage Release*

- A. If final completion of the Work is significantly delayed, and if City so confirms, City may, upon receipt of Contractor's final Application for Payment, 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 City for Work not fully completed or corrected is less than the retainage stipulated in Paragraph 14.02.C, and if bonds have been furnished as required in Paragraph 5.02, 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 City 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 Contract Claims.

- B. *Partial Retainage Release.* For a Contract that provides for a separate vegetative establishment and maintenance, and test and performance periods following the completion of all other construction in the Contract Documents for all Work locations, the City may release a portion of the amount retained provided that all other work is completed as determined by the City. Before the release, all submittals and final quantities must be completed and accepted for all other work. An amount sufficient to ensure Contract compliance will be retained.

14.09 *Waiver of Claims*

The acceptance of final payment will constitute a release of the City from all claims or liabilities under the Contract for anything done or furnished or relating to the work under the Contract Documents or any act or neglect of City related to or connected with the Contract.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *City May Suspend Work*

- A. At any time and without cause, City may suspend the Work or any portion thereof by written notice to Contractor and which may fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. During temporary suspension of the Work covered by these Contract Documents, for any reason, the City will make no extra payment for stand-by time of construction equipment and/or construction crews.
- B. Should the Contractor not be able to complete a portion of the Project due to causes beyond the control of and without the fault or negligence of the Contractor, and should it be determined by mutual consent of the Contractor and City that a solution to allow construction to proceed is not available within a reasonable period of time, Contractor may request an extension in Contract Time, directly attributable to any such suspension.
- C. If it should become necessary to suspend the Work for an indefinite period, the Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily nor become damaged in any way, and he shall take every precaution to prevent damage or deterioration of the work performed; he shall provide suitable drainage about the work, and erect temporary structures where necessary.
- D. Contractor may be reimbursed for the cost of moving his equipment off the job and returning the necessary equipment to the job when it is determined by the City that construction may be resumed. Such reimbursement shall be based on actual cost to the Contractor of moving the equipment and no profit will be allowed. Reimbursement may not be allowed if the equipment is moved to another construction project for the City.

15.02 *City May Terminate for Cause*

- A. The occurrence of any one or more of the following events by way of example, but not of limitation, may 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, failure to adhere to the Project Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04, or failure to adhere to the City's Business Diversity Enterprise Ordinance #20020-12-2011 established under Paragraph 6.06.D);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of City; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents; or
 5. Contractor's failure to promptly make good any defect in materials or workmanship, or defects of any nature, the correction of which has been directed in writing by the City; or
 6. Substantial indication that the Contractor has made an unauthorized assignment of the Contract or any funds due therefrom for the benefit of any creditor or for any other purpose; or
 7. Substantial evidence that the Contractor has become insolvent or bankrupt, or otherwise financially unable to carry on the Work satisfactorily; or
 8. Contractor commences legal action in a court of competent jurisdiction against the City.
- B. If one or more of the events identified in Paragraph 15.02A. occur, City will provide written notice to Contractor and Surety to arrange a conference with Contractor and Surety to address Contractor's failure to perform the Work. Conference shall be held not later than 15 days, after receipt of notice.
1. If the City, the Contractor, and the Surety do not agree to allow the Contractor to proceed to perform the construction Contract, the City may, to the extent permitted by Laws and Regulations, declare a Contractor default and formally terminate the Contractor's right to complete the Contract. Contractor default shall not be declared earlier than 20 days after the Contractor and Surety have received notice of conference to address Contractor's failure to perform the Work.
 2. If Contractor's services are terminated, Surety shall be obligated to take over and perform the Work. If Surety does not commence performance thereof within 15 consecutive calendar days after date of an additional written notice demanding Surety's performance of its

- obligations, then City, without process or action at law, may take over any portion of the Work and complete it as described below.
- a. If City completes the Work, City may exclude Contractor and Surety from the site and take possession of the Work, and all materials and equipment incorporated into the Work stored at the Site or for which City has paid Contractor or Surety but which are stored elsewhere, and finish the Work as City may deem expedient.
3. Whether City or Surety completes the Work, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses and damages sustained by City arising out of or resulting from 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 City. Such claims, costs, losses and damages incurred by City will be incorporated in a Change Order, provided that when exercising any rights or remedies under this Paragraph, City shall not be required to obtain the lowest price for the Work performed.
 4. Neither City, nor any of its respective consultants, agents, officers, directors or employees shall be in any way liable or accountable to Contractor or Surety for the method by which the completion of the said Work, or any portion thereof, may be accomplished or for the price paid therefor.
 5. City, notwithstanding the method used in completing the Contract, shall not forfeit the right to recover damages from Contractor or Surety for Contractor's failure to timely complete the entire Contract. Contractor shall not be entitled to any claim on account of the method used by City in completing the Contract.
 6. Maintenance of the Work shall continue to be Contractor's and Surety's responsibilities as provided for in the bond requirements of the Contract Documents or any special guarantees provided for under the Contract Documents or any other obligations otherwise prescribed by law.
- C. Notwithstanding Paragraphs 15.02.B, 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.
 - D. Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by City will not release Contractor from liability.
 - E. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.02, the termination procedures of that bond shall not supersede the provisions of this Article.

15.03 *City May Terminate For Convenience*

- A. City may, without cause and without prejudice to any other right or remedy of City, terminate the Contract. Any termination shall be effected by mailing a notice of the termination to the Contractor specifying the extent to which performance of Work under the contract is terminated, and the date upon which such termination becomes effective. Receipt of the notice shall be deemed conclusively presumed and established when the letter is placed in the United States Postal Service Mail by the City. Further, it shall be deemed conclusively presumed and established that such termination is made with just cause as therein stated; and no proof in any claim, demand or suit shall be required of the City regarding such discretionary action.
- B. After receipt of a notice of termination, and except as otherwise directed by the City, the Contractor shall:
1. Stop work under the Contract on the date and to the extent specified in the notice of termination;
 2. place no further orders or subcontracts for materials, services or facilities except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
 3. terminate all orders and subcontracts to the extent that they relate to the performance of the Work terminated by notice of termination;
 4. transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the City:
 - a. the fabricated or unfabricated parts, Work in progress, completed Work, supplies and other material produced as a part of, or acquired in connection with the performance of, the Work terminated by the notice of the termination; and
 - b. the completed, or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to the City.
 5. complete performance of such Work as shall not have been terminated by the notice of termination; and
 6. take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to its contract which is in the possession of the Contractor and in which the owner has or may acquire the rest.
- C. At a time not later than 30 days after the termination date specified in the notice of termination, the Contractor may submit to the City a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by City.

- D. Not later than 15 days thereafter, the City shall accept title to such items provided, that the list submitted shall be subject to verification by the City upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.
- E. Not later than 60 days after the notice of termination, the Contractor shall submit his termination claim to the City in the form and with the certification prescribed by the City. Unless an extension is made in writing within such 60 day period by the Contractor, and granted by the City, any and all such claims shall be conclusively deemed waived.
- F. 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; and
 3. reasonable expenses directly attributable to termination.
- G. In the event of the failure of the Contractor and City to agree upon the whole amount to be paid to the Contractor by reason of the termination of the Work, the City shall determine, on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined. 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.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Either City or Contractor may request mediation of any Contract Claim submitted for a decision under Paragraph 10.06 before such decision becomes final and binding. The request for mediation shall be submitted to the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.06.E.
- B. City and Contractor shall participate in the mediation process in good faith. The process shall be commenced within 60 days of filing of the request.
- C. If the Contract Claim is not resolved by mediation, City's action under Paragraph 10.06.C or a denial pursuant to Paragraphs 10.06.C.3 or 10.06.D shall become final and binding 30 days after termination of the mediation unless, within that time period, City or Contractor:

1. elects in writing to invoke any other dispute resolution process provided for in the Supplementary Conditions; or
2. agrees with the other party to submit the Contract Claim to another dispute resolution process; or
3. gives written notice to the other party of the intent to submit the Contract 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.
- B. Business address changes must be promptly made in writing to the other party.
- C. Whenever the Contract Documents specifies giving notice by electronic means such electronic notice shall be deemed sufficient upon confirmation of receipt by the receiving party.

17.02 *Computation of Times*

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 the next Working Day shall become the last day of the period.

17.03 *Cumulative Remedies*

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*

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 *Headings*

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

SECTION 00 73 00
SUPPLEMENTARY CONDITIONS
TO
GENERAL CONDITIONS

Supplementary Conditions

These Supplementary Conditions modify and supplement Section 00 72 00 - General Conditions, and other provisions of the Contract Documents as indicated below. All provisions of the General Conditions that are modified or supplemented remain in full force and effect as so modified or supplemented. All provisions of the General Conditions which are not so modified or supplemented remain in full force and effect.

Defined Terms

The terms used in these Supplementary Conditions which are defined in the General Conditions have the meaning assigned to them in the General Conditions, unless specifically noted herein.

Modifications and Supplements

The following are instructions that modify or supplement specific paragraphs in the General Conditions and other Contract Documents.

SC-3.03B.2, "Resolving Discrepancies"

Plans govern over Specifications.

SC-4.01A

Easement limits shown on the Drawing are approximate and were provided to establish a basis for bidding. Upon receiving the final easements descriptions, Contractor shall compare them to the lines shown on the Contract Drawings.

SC-4.01A.1., "Availability of Lands"

The following is a list of known outstanding right-of-way, and/or easements to be acquired, if any as of August 25, 2021: none

Outstanding Right-Of-Way, and/or Easements to Be Acquired

PARCEL NUMBER	OWNER	TARGET DATE OF POSSESSION
--------------------------	--------------	--------------------------------------

None

The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed, and do not bind the City.

If Contractor considers the final easements provided to differ materially from the representations on the Contract Drawings, Contractor shall within five (5) Business Days and before proceeding with the Work, notify City in writing associated with the differing easement line locations.

SC-4.01A.2, "Availability of Lands"

Utilities or obstructions to be removed, adjusted, and/or relocated

The following is list of utilities and/or obstructions that have not been removed, adjusted, and/or relocated as of August 25, 2021:

EXPECTED OWNER	UTILITY AND LOCATION	TARGET DATE OF ADJUSTMENT
None		

The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed, and do not bind the City.

SC-4.02A., "Subsurface and Physical Conditions"

The following are reports of explorations and tests of subsurface conditions at the site of the Work:

None

The following are drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site of the Work:

None

SC-4.06A., "Hazardous Environmental Conditions at Site"

The following are reports and drawings of existing hazardous environmental conditions known to the City:

None

SC-5.03A., "Certificates of Insurance"

The entities listed below are "additional insureds as their interest may appear" including their respective officers, directors, agents and employees.

- (1) City
- (2) Consultant: Kimley-Horn and Associates, Inc.
- (3) Other: None

SC-5.04A., "Contractor's Insurance"

The limits of liability for the insurance required by Paragraph GC-5.04 shall provide the following coverages for not less than the following amounts or greater where required by laws and regulations:

5.04A. Workers' Compensation, under Paragraph GC-5.04A.

Statutory limits
Employer's liability
\$100,000 each accident/occurrence
\$100,000 Disease - each employee
\$500,000 Disease - policy limit

SC-5.04B., "Contractor's Insurance"

5.04B. Commercial General Liability, under Paragraph GC-5.04B. Contractor's Liability Insurance under Paragraph GC-5.04B., which shall be on a per project basis covering the Contractor with minimum limits of:

\$1,000,000 each occurrence
\$2,000,000 aggregate limit

The policy must have an endorsement (Amendment -- Aggregate Limits of Insurance) making the General Aggregate Limits apply separately to each job site.

The Commercial General Liability Insurance policies shall provide "X", "C", and "U" coverage's. Verification of such coverage must be shown in the Remarks Article of the Certificate of Insurance.

SC 5.04C., "Contractor's Insurance"

5.04C. Automobile Liability, under Paragraph GC-5.04C. Contractor's Liability Insurance under Paragraph GC-5.04C., which shall be in an amount not less than the following amounts:

- (1) **Automobile Liability** - a commercial business policy shall provide coverage on "Any Auto", defined as autos owned, hired and non-owned.

\$1,000,000 each accident on a combined single limit basis. Split limits are acceptable if limits are at least:

\$250,000 Bodily Injury per person /
\$500,000 Bodily Injury per accident /
\$100,000 Property Damage

SC-5.04D., "Contractor's Insurance"

Not applicable

SC-6.04., "Project Schedule"

Project schedule shall be tier 3 for the project.

SC-6.07., "Wage Rates"

The following is the prevailing wage rate table(s) applicable to this project and is provided in the Appendixes:

CFW Horizontal Wage Rate Table, 2013 Prevailing Wage Rates
CFW Vertical Wage Rate Table, 2013 Prevailing Wage Rates

A copy of the table is also available by accessing the City's website at:

<https://apps.fortworthtexas.gov/ProjectResources/>

You can access the file by following the directory path:
02-Construction Documents/Specifications/Div00 -- General Conditions

SC-6.09., "Permits and Utilities"

SC-6.09A., "Contractor obtained permits and licenses"

The following are known permits and/or licenses required by the Contract to be acquired by the Contractor:

None

SC-6.09B. "City obtained permits and licenses"

The following are known permits and/or licenses required by the Contract to be acquired by the City:

None

SC-6.09C. "Outstanding permits and licenses"

The following is a list of known outstanding permits and/or licenses to be acquired, if any as of August 25, 2021:

Outstanding Permits and/or Licenses to Be Acquired

OWNER	PERMIT OR LICENSE AND LOCATION	TARGET DATE OF POSSESSION
-------	--------------------------------	---------------------------

None

SC-6.24B., "Title VI, Civil Rights Act of 1964 as amended"

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- 1. Compliance with Regulations:** The Contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- 2. Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by City or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the City, or the Texas Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, City shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:
- a. withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as City or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request City to enter into such litigation to protect the interests of City, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Additional Title VI requirements can be found in the Appendix.

SC-7.02., "Coordination"

The individuals or entities listed below have contracts with the City for the performance of other work at the Site:

Vendor	Scope of Work	Coordination Authority
None		

SC-9.01., "City's Project Manager"

The City's Project Manager for this Contract is Chad Allen, P.E., or his/her successor pursuant to **written notification from the Director of Transportation and Public Works.**

SC-13.03C., "Tests and Inspections"

None

SC-16.01C.1., "Methods and Procedures"

None

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE
1/22/2016	F. Griffin	SC-9.01., "City's Project Representative" wording changed to City's Project Manager.
3/9/2020	D.V. Magaña	SC-6.07, Updated the link such that files can be accessed via the City's website.

SECTION 01 11 00
SUMMARY OF WORK

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Summary of Work to be performed in accordance with the Contract Documents
- B. Deviations from this City of Fort Worth Standard Specification
 - 1. None.
- C. Related Specification Sections include, but are not necessarily limited to:
 - 1. Division 0 - Bidding Requirements, Contract Forms, and Conditions of the Contract
 - 2. Division 1 - General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
 - 1. Work associated with this Item is considered subsidiary to the various items bid.
No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

- A. Work Covered by Contract Documents
 - 1. Work is to include furnishing all labor, materials, and equipment, and performing all Work necessary for this construction project as detailed in the Drawings and Specifications.
- B. Subsidiary Work
 - 1. Any and all Work specifically governed by documentary requirements for the project, such as conditions imposed by the Drawings or Contract Documents in which no specific item for bid has been provided for in the Proposal and the item is not a typical unit bid item included on the standard bid item list, then the item shall be considered as a subsidiary item of Work, the cost of which shall be included in the price bid in the Proposal for various bid items.
- C. Use of Premises
 - 1. Coordinate uses of premises under direction of the City.
 - 2. Assume full responsibility for protection and safekeeping of materials and equipment stored on the Site.
 - 3. Use and occupy only portions of the public streets and alleys, or other public places or other rights-of-way as provided for in the ordinances of the City, as shown in the Contract Documents, or as may be specifically authorized in writing by the City.
 - a. A reasonable amount of tools, materials, and equipment for construction purposes may be stored in such space, but no more than is necessary to avoid delay in the construction operations.

- b. Excavated and waste materials shall be stored in such a way as not to interfere with the use of spaces that may be designated to be left free and unobstructed and so as not to inconvenience occupants of adjacent property.
- c. If the street is occupied by railroad tracks, the Work shall be carried on in such manner as not to interfere with the operation of the railroad.
 - 1) All Work shall be in accordance with railroad requirements set forth in Division 0 as well as the railroad permit.

D. Work within Easements

- 1. Do not enter upon private property for any purpose without having previously obtained permission from the owner of such property.
- 2. Do not store equipment or material on private property unless and until the specified approval of the property owner has been secured in writing by the Contractor and a copy furnished to the City.
- 3. Unless specifically provided otherwise, clear all rights-of-way or easements of obstructions which must be removed to make possible proper prosecution of the Work as a part of the project construction operations.
- 4. Preserve and use every precaution to prevent damage to, all trees, shrubbery, plants, lawns, fences, culverts, curbing, and all other types of structures or improvements, to all water, sewer, and gas lines, to all conduits, overhead pole lines, or appurtenances thereof, including the construction of temporary fences and to all other public or private property adjacent to the Work.
- 5. Notify the proper representatives of the owners or occupants of the public or private lands of interest in lands which might be affected by the Work.
 - a. Such notice shall be made at least 48 hours in advance of the beginning of the Work.
 - b. Notices shall be applicable to both public and private utility companies and any corporation, company, individual, or other, either as owners or occupants, whose land or interest in land might be affected by the Work.
 - c. Be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in the manner or method or execution of the Work, or at any time due to defective work, material, or equipment.
- 6. Fence
 - a. Restore all fences encountered and removed during construction of the Project to the original or a better than original condition.
 - b. Erect temporary fencing in place of the fencing removed whenever the Work is not in progress and when the site is vacated overnight, and/or at all times to provide site security.
 - c. The cost for all fence work within easements, including removal, temporary closures and replacement, shall be subsidiary to the various items bid in the project proposal, unless a bid item is specifically provided in the proposal.

- 1.5 SUBMITTALS [NOT USED]
- 1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]
- 1.7 CLOSEOUT SUBMITTALS [NOT USED]
- 1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]
- 1.9 QUALITY ASSURANCE [NOT USED]
- 1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]
- 1.11 FIELD [SITE] CONDITIONS [NOT USED]
- 1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

SECTION 01 25 00
SUBSTITUTION PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
1. The procedure for requesting the approval of substitution of a product that is not equivalent to a product which is specified by descriptive or performance criteria or defined by reference to 1 or more of the following:
 - a. Name of manufacturer
 - b. Name of vendor
 - c. Trade name
 - d. Catalog number
 2. Substitutions are not "or-equals".
- B. Deviations from this City of Fort Worth Standard Specification
1. None.
- C. Related Specification Sections include, but are not necessarily limited to:
1. Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract
 2. Division 1 – General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
1. Work associated with this Item is considered subsidiary to the various items bid. No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

- A. Request for Substitution - General
1. Within 30 days after award of Contract (unless noted otherwise), the City will consider formal requests from Contractor for substitution of products in place of those specified.
 2. Certain types of equipment and kinds of material are described in Specifications by means of references to names of manufacturers and vendors, trade names, or catalog numbers.
 - a. When this method of specifying is used, it is not intended to exclude from consideration other products bearing other manufacturer's or vendor's names, trade names, or catalog numbers, provided said products are "or-equals," as determined by City.
 3. Other types of equipment and kinds of material may be acceptable substitutions under the following conditions:
 - a. Or-equals are unavailable due to strike, discontinued production of products meeting specified requirements, or other factors beyond control of Contractor;
or,

- b. Contractor proposes a cost and/or time reduction incentive to the City.

1.5 SUBMITTALS

A. See Request for Substitution Form (attached)

B. Procedure for Requesting Substitution

1. Substitution shall be considered only:
 - a. After award of Contract
 - b. Under the conditions stated herein
2. Submit 3 copies of each written request for substitution, including:
 - a. Documentation
 - 1) Complete data substantiating compliance of proposed substitution with Contract Documents
 - 2) Data relating to changes in construction schedule, when a reduction is proposed
 - 3) Data relating to changes in cost
 - b. For products
 - 1) Product identification
 - a) Manufacturer's name
 - b) Telephone number and representative contact name
 - c) Specification Section or Drawing reference of originally specified product, including discrete name or tag number assigned to original product in the Contract Documents
 - 2) Manufacturer's literature clearly marked to show compliance of proposed product with Contract Documents
 - 3) Itemized comparison of original and proposed product addressing product characteristics including, but not necessarily limited to:
 - a) Size
 - b) Composition or materials of construction
 - c) Weight
 - d) Electrical or mechanical requirements
 - 4) Product experience
 - a) Location of past projects utilizing product
 - b) Name and telephone number of persons associated with referenced projects knowledgeable concerning proposed product
 - c) Available field data and reports associated with proposed product
 - 5) Samples
 - a) Provide at request of City.
 - b) Samples become the property of the City.
 - c. For construction methods:
 - 1) Detailed description of proposed method
 - 2) Illustration drawings

C. Approval or Rejection

1. Written approval or rejection of substitution given by the City
2. City reserves the right to require proposed product to comply with color and pattern of specified product if necessary to secure design intent.
3. In the event the substitution is approved, the resulting cost and/or time reduction will be documented by Change Order in accordance with the General Conditions.

4. No additional contract time will be given for substitution.
5. Substitution will be rejected if:
 - a. Submittal is not through the Contractor with his stamp of approval
 - b. Request is not made in accordance with this Specification Section
 - c. In the City's opinion, acceptance will require substantial revision of the original design
 - d. In the City's opinion, substitution will not perform adequately the function consistent with the design intent

1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]

1.7 CLOSEOUT SUBMITTALS [NOT USED]

1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]

1.9 QUALITY ASSURANCE

- A. In making request for substitution or in using an approved product, the Contractor represents that the Contractor:
1. Has investigated proposed product, and has determined that it is adequate or superior in all respects to that specified, and that it will perform function for which it is intended
 2. Will provide same guarantee for substitute item as for product specified
 3. Will coordinate installation of accepted substitution into Work, to include building modifications if necessary, making such changes as may be required for Work to be complete in all respects
 4. Waives all claims for additional costs related to substitution which subsequently arise

1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]

1.11 FIELD [SITE] CONDITIONS [NOT USED]

1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

**EXHIBIT A
 REQUEST FOR SUBSTITUTION FORM:**

TO: _____
 PROJECT: _____ DATE: _____

We hereby submit for your consideration the following product instead of the specified item for the above project:

SECTION	PARAGRAPH	SPECIFIED ITEM
---------	-----------	----------------

Proposed Substitution: _____

Reason for Substitution: _____

Include complete information on changes to Drawings and/or Specifications which proposed substitution will require for its proper installation.

Fill in Blanks Below:

A. Will the undersigned contractor pay for changes to the building design, including engineering and detailing costs caused by the requested substitution?

B. What effect does substitution have on other trades? _____

C. Differences between proposed substitution and specified item? _____

D. Differences in product cost or product delivery time? _____

E. Manufacturer's guarantees of the proposed and specified items are: _____

_____ Equal _____ Better (explain on attachment)

The undersigned states that the function, appearance and quality are equivalent or superior to the specified item.

Submitted By: _____ For Use by City

Signature _____ Recommended _____ Recommended
 as noted

Firm _____ Not recommended _____ Received late

Address _____ By _____

Date _____

Telephone _____ Remarks _____

For Use by City:

_____ Approved _____ Rejected

City _____ Date _____

SECTION 01 31 19
PRECONSTRUCTION MEETING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Provisions for the preconstruction meeting to be held prior to the start of Work to clarify construction contract administration procedures
- B. Deviations from this City of Fort Worth Standard Specification
 - 1. None.
- C. Related Specification Sections include, but are not necessarily limited to:
 - 1. Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract
 - 2. Division 1 – General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
 - 1. Work associated with this Item is considered subsidiary to the various items bid. No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

- A. Coordination
 - 1. Attend preconstruction meeting.
 - 2. Representatives of Contractor, subcontractors and suppliers attending meetings shall be qualified and authorized to act on behalf of the entity each represents.
 - 3. Meeting administered by City may be tape recorded.
 - a. If recorded, tapes will be used to prepare minutes and retained by City for future reference.
- B. Preconstruction Meeting
 - 1. A preconstruction meeting will be held within 14 days after the execution of the Agreement and before Work is started.
 - a. The meeting will be scheduled and administered by the City.
 - 2. The Project Representative will preside at the meeting, prepare the notes of the meeting and distribute copies of same to all participants who so request by fully completing the attendance form to be circulated at the beginning of the meeting.
 - 3. Attendance shall include:
 - a. Project Representative
 - b. Contractor's project manager
 - c. Contractor's superintendent
 - d. Any subcontractor or supplier representatives whom the Contractor may desire to invite or the City may request

- e. Other City representatives
- f. Others as appropriate
- 4. Construction Schedule
 - a. Prepare baseline construction schedule in accordance with Section 01 32 16 and provide at Preconstruction Meeting.
 - b. City will notify Contractor of any schedule changes upon Notice of Preconstruction Meeting.
- 5. Preliminary Agenda may include:
 - a. Introduction of Project Personnel
 - b. General Description of Project
 - c. Status of right-of-way, utility clearances, easements or other pertinent permits
 - d. Contractor's work plan and schedule
 - e. Contract Time
 - f. Notice to Proceed
 - g. Construction Staking
 - h. Progress Payments
 - i. Extra Work and Change Order Procedures
 - j. Field Orders
 - k. Disposal Site Letter for Waste Material
 - l. Insurance Renewals
 - m. Payroll Certification
 - n. Material Certifications and Quality Control Testing
 - o. Public Safety and Convenience
 - p. Documentation of Pre-Construction Conditions
 - q. Weekend Work Notification
 - r. Legal Holidays
 - s. Trench Safety Plans
 - t. Confined Space Entry Standards
 - u. Coordination with the City's representative for operations of existing water systems
 - v. Storm Water Pollution Prevention Plan
 - w. Coordination with other Contractors
 - x. Early Warning System
 - y. Contractor Evaluation
 - z. Special Conditions applicable to the project
 - aa. Damages Claims
 - bb. Submittal Procedures
 - cc. Substitution Procedures
 - dd. Correspondence Routing
 - ee. Record Drawings
 - ff. Temporary construction facilities
 - gg. M/WBE or MBE/SBE procedures
 - hh. Final Acceptance
 - ii. Final Payment
 - jj. Questions or Comments

- 1.5 SUBMITTALS [NOT USED]
- 1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]
- 1.7 CLOSEOUT SUBMITTALS [NOT USED]
- 1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]
- 1.9 QUALITY ASSURANCE [NOT USED]
- 1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]
- 1.11 FIELD [SITE] CONDITIONS [NOT USED]
- 1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
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SECTION 01 31 20
PROJECT MEETINGS

PART 1 - GENERAL

1.1 SUMMARY

A. Section Includes:

1. Provisions for project meetings throughout the construction period to enable orderly review of the progress of the Work and to provide for systematic discussion of potential problems

B. Deviations this City of Fort Worth Standard Specification

1. None.

C. Related Specification Sections include, but are not necessarily limited to:

1. Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract
2. Division 1 – General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

A. Measurement and Payment

1. Work associated with this Item is considered subsidiary to the various items bid. No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

A. Coordination

1. Schedule, attend and administer as specified, periodic progress meetings, and specially called meetings throughout progress of the Work.
2. Representatives of Contractor, subcontractors and suppliers attending meetings shall be qualified and authorized to act on behalf of the entity each represents.
3. Meetings administered by City may be tape recorded.
 - a. If recorded, tapes will be used to prepare minutes and retained by City for future reference.
4. Meetings, in addition to those specified in this Section, may be held when requested by the City, Engineer or Contractor.

B. Pre-Construction Neighborhood Meeting

1. After the execution of the Agreement, but before construction is allowed to begin, attend 1 Public Meeting with affected residents to:
 - a. Present projected schedule, including construction start date
 - b. Answer any construction related questions
2. Meeting Location
 - a. Location of meeting to be determined by the City.
3. Attendees

- a. Contractor
 - b. Project Representative
 - c. Other City representatives
4. Meeting Schedule
- a. In general, the neighborhood meeting will occur within the 2 weeks following the pre-construction conference.
 - b. In no case will construction be allowed to begin until this meeting is held.
- C. Progress Meetings
1. Formal project coordination meetings will be held periodically. Meetings will be scheduled and administered by Project Representative.
 2. Additional progress meetings to discuss specific topics will be conducted on an as-needed basis. Such additional meetings shall include, but not be limited to:
 - a. Coordinating shutdowns
 - b. Installation of piping and equipment
 - c. Coordination between other construction projects
 - d. Resolution of construction issues
 - e. Equipment approval
 3. The Project Representative will preside at progress meetings, prepare the notes of the meeting and distribute copies of the same to all participants who so request by fully completing the attendance form to be circulated at the beginning of each meeting.
 4. Attendance shall include:
 - a. Contractor's project manager
 - b. Contractor's superintendent
 - c. Any subcontractor or supplier representatives whom the Contractor may desire to invite or the City may request
 - d. Engineer's representatives
 - e. City's representatives
 - f. Others, as requested by the Project Representative
 5. Preliminary Agenda may include:
 - a. Review of Work progress since previous meeting
 - b. Field observations, problems, conflicts
 - c. Items which impede construction schedule
 - d. Review of off-site fabrication, delivery schedules
 - e. Review of construction interfacing and sequencing requirements with other construction contracts
 - f. Corrective measures and procedures to regain projected schedule
 - g. Revisions to construction schedule
 - h. Progress, schedule, during succeeding Work period
 - i. Coordination of schedules
 - j. Review submittal schedules
 - k. Maintenance of quality standards
 - l. Pending changes and substitutions
 - m. Review proposed changes for:
 - 1) Effect on construction schedule and on completion date
 - 2) Effect on other contracts of the Project
 - n. Review Record Documents
 - o. Review monthly pay request

- p. Review status of Requests for Information
- 6. Meeting Schedule
 - a. Progress meetings will be held periodically as determined by the Project Representative.
 - 1) Additional meetings may be held at the request of the:
 - a) City
 - b) Engineer
 - c) Contractor
- 7. Meeting Location
 - a. The City will establish a meeting location.
 - 1) To the extent practicable, meetings will be held at the Site.

1.5 SUBMITTALS [NOT USED]

1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]

1.7 CLOSEOUT SUBMITTALS [NOT USED]

1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]

1.9 QUALITY ASSURANCE [NOT USED]

1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]

1.11 FIELD [SITE] CONDITIONS [NOT USED]

1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

1 Each project is represented by City's master project schedule that encompasses the
2 entire scope of activities envisioned by the City to properly deliver the work. When the
3 City contracts with a Contractor to perform construction of the Work, the Contractor
4 will develop and maintain a schedule for their scope of work in alignment with the
5 City's standard schedule requirements as defined herein. The data and information of
6 each such schedule will be leveraged and become integral in the master project
7 schedule as deemed appropriate by the City's Project Control Specialist and approved
8 by the City's Project Manager.
9

10 1. Master Project Schedule

11 The master project schedule is a holistic representation of the scheduled activities
12 and milestones for the total project and be Critical Path Method (CPM) based. The
13 City's Project Manager is accountable for oversight of the development and
14 maintaining a master project schedule for each project. When the City contracts for
15 the design and/or construction of the project, the master project schedule will
16 incorporate elements of the Design and Construction schedules as deemed
17 appropriate by the City's Project Control Specialist. The assigned City Project
18 Control Specialist creates and maintains the master project schedule in P6 (City's
19 scheduling software).
20

21 2. Construction Schedule

22 The Contractor is responsible for developing and maintaining a schedule for the
23 scope of the Contractor's contractual requirements. The Contractor will issue an
24 initial schedule for review and acceptance by the City's Project Control Specialist
25 and the City's Project Manager as a baseline schedule for Contractor's scope of
26 work. Contractor will issue current, accurate updates of their schedule (Progress
27 Schedule) to the City at the end of each month throughout the life of their work.
28

29 B. Schedule Tiers

30 The City has a portfolio of projects that vary widely in size, complexity and content
31 requiring different scheduling to effectively deliver each project. The City uses a
32 "tiered" approach to align the proper schedule with the criteria for each project. The
33 City's Project Manager determines the appropriate schedule tier for each project, and
34 includes that designation and the associated requirements in the Contractor's scope of
35 work. The following is a summary of the "tiers".
36

37 1. Tier 1: Small Size and Short Duration Project (design not required)

38 The City develops and maintains a Master Project Schedule for the project. No
39 schedule submittal is required from Contractor. City's Project Control Specialist
40 acquires any necessary schedule status data or information through discussions with
41 the respective party on an as-needed basis.
42

43 2. Tier 2: Small Size and Short to Medium Duration Project

44 The City develops and maintains a Master Project Schedule for the project. The
45 Contractor identifies "start" and "finish" milestone dates on key elements of their
46 work as agreed with the City's Project Manager at the kickoff of their work effort.
47 The Contractor issues to the City, updates to the "start" and "finish" dates for such
48 milestones at the end of each month throughout the life of their work on the project.
49

3. Tier 3: Medium and Large Size and/or Complex Projects Regardless of Duration

1 The City develops and maintains a Master Project Schedule for the project. The
2 Contractor develops a Baseline Schedule and maintains the schedule of their
3 respective scope of work on the project at a level of detail (generally Level 3) and in
4 alignment with the WBS structure in Section 1.4.H as agreed by the Project
5 Manager. The Contractor issues to the City, updates of their respective schedule
6 (Progress Schedule) at the end of each month throughout the life of their work on the
7 project.

8 C. Schedule Types

9 Project delivery for the City utilizes two types of schedules as noted below. The City
10 develops and maintains a Master Project Schedule as a "baseline" schedule and issue
11 monthly updates to the City Project Manager (end of each month) as a "progress"
12 schedule. The Contractor prepares and submits each schedule type to fulfill their
13 contractual requirements.
14

15 1. Baseline Schedule

16 The Contractor develops and submits to the City, an initial schedule for their scope
17 of work in alignment with this specification. Once reviewed and accepted by the
18 City, it becomes the "Baseline" schedule and is the basis against which all progress
19 is measured. The baseline schedule will be updated when there is a change or
20 addition to the scope of work impacting the duration of the work, and only after
21 receipt of a duly authorized change order issued by the City. In the event progress is
22 significantly behind schedule, the City's Project Manager may authorize an update
23 to the baseline schedule to facilitate a more practical evaluation of progress. An
24 example of a Baseline Schedule is provided in Specification 01 32 16.1
25 Construction Project Schedule Baseline Example.
26

27 2. Progress Schedule

28 The Contractor updates their schedule at the end of each month to represent the
29 progress achieved in the work which includes any impact from authorized changes
30 in the work. The updated schedule must accurately reflect the current status of the
31 work at that point in time and is referred to as the "Progress Schedule". The City's
32 Project Manager and Project Control Specialist reviews and accepts each progress
33 schedule. In the event a progress schedule is deemed not acceptable, the
34 unacceptable issues are identified by the City within 5 working days and the
35 Contractor must provide an acceptable progress schedule within 5 working days
36 after receipt of non-acceptance notification. An example of a Progress Schedule is
37 provided in Specification 01 32 16.2 Construction Project Schedule Progress
38 Example.

39 D. City Standard Schedule requirements

40 The following is an overview of the methodology for developing and maintaining a
41 schedule for delivery of a project.

1 I. Schedule Framework - The schedule will be based on the defined scope of work
2 and follow the (Critical Path Methodology) CPM method. The Contractor's
3 schedule will align with the requirements of this specification and will be *cost*
4 *loaded* to reflect their plan for execution. **Compliance with cost loading can be**
5 **provided with traditional cost loading of line items OR a projected cost per**
6 **month for the project when the initial schedule is submitted, updated on a**
7 **quarterly basis is significant change is anticipated.** Overall schedule duration
8 will align with the contractual requirements for the respective scope of work and be
9 reflected in City's Master Project Schedule. The Project Number and Name of the
10 Project is required on each schedule and must match the City's project data.
11

12 E. Schedule File Name

13 All schedules submitted to the City for a project will have a file name that begins with
14 the City's *project number* followed by the *name of the project* followed by *baseline* (if
15 a baseline schedule) or the *year and month* (if a progress schedule), as shown below.
16

17 • Baseline Schedule File Name

18 Format: City Project Number_Project Name_Baseline
19 Example: 101376_North Montgomery Street HMAC_Baseline
20

21 • Progress Schedule File Name

22 Format: City Project Number_Project Name_YYYY-MM
23 Example: 101376_North Montgomery Street HMAC_2018_01
24

25 • Project Schedule Progress Narrative File Name

26 Format: City Project Number_Project Name_PN_YYYY-MM
27 Example: 101376_North Montgomery Street HMAC_PN_2018_01
28

29 F. Schedule Templates

30 The Contractor will utilize the relevant sections from the City's templates provided in
31 the City's document management system as the basis for creating their respective
32 project schedule. Specifically, the Contractor's schedule will align with the layout of
33 the Construction section. The templates are identified by type of project as noted
34 below.

- 35 • Arterials
- 36 • Aviation
- 37 • Neighborhood Streets
- 38 • Sidewalks (later)
- 39 • Quiet Zones (later)
- 40 • Street Lights (later)
- 41 • Intersection Improvements (later)
- 42 • Parks
- 43 • Storm water
- 44 • Street Maintenance
- 45 • Traffic
- 46 • Water
- 47

48 G. Schedule Calendar

1 The City's standard calendar for schedule development purposes is based on a 5-day
2 workweek and accounts for the City's eight standard holidays (New Years, Martin
3 Luther King, Memorial, Independence, Labor, Thanksgiving, day after Thanksgiving,
4 Christmas). The Contractor will establish a schedule calendar as part of the schedule
5 development process and provide to the Project Control Specialist as part of the basis
6 for their schedule. Variations between the City's calendar and the Contractor's
7 calendar must be resolved prior to the City's acceptance of their Baseline project
8 schedule.
9

10 H. WBS & Milestone Standards for Schedule Development

11 The scope of work to be accomplished by the Contractor is represented in the schedule
12 in the form of a Work Breakdown Structure (WBS). The WBS is the basis for the
13 development of the schedule activities and shall be imbedded and depicted in the
14 schedule.
15

16 The following is a summary of the standards to be followed in preparing and
17 maintaining a schedule for project delivery.
18

- 19 1. Contractor is required to utilize the City's WBS structure and respective
20 project type template for "Construction" as shown in Section 1.4.H below.
21 Additional activities may be added to Levels 1 - 4 to accommodate the needs
22 of the organization executing the work. Specifically the Contractor will add
23 activities under WBS XXXXXX.80.83 "Construction Execution" that
24 delineates the activities associated with the various components of the work.
25
- 26 2. Contractor is required to adhere to the City's Standard Milestones as shown
27 in Section 1.4.I below. Contractor will include additional milestones
28 representing intermediate deliverables as required to accurately reflect their
29 scope of work.
30

31 I. Schedule Activities

32 Activities are the discrete elements of work that make up the schedule. They will be
33 organized under the umbrella of the WBS. Activity descriptions should adequately
34 describe the activity, and in some cases the extent of the activity. All activities are
35 logically tied with a predecessor and a successor. The only exception to this rule is for
36 "project start" and "project finish" milestones.
37

38 The activity duration is based on the physical amount of work to be performed for the
39 stated activity, with a maximum duration of 20 working days **OR a continuous activity**
40 **in one location**. If the work for any one activity exceeds 20 days, break that activity
41 down incrementally to achieve this duration constraint. Any exception to this requires
42 review and acceptance by the City's Project Control Specialist.
43

44 J. Change Orders

45 When a Change Order is issued by the City, the impact is incorporated into the
46 previously accepted baseline schedule as an update, to clearly show impact to the
47 project timeline. The Contractor submits this updated baseline schedule to the City for

1 review and acceptance as described in Section 1.5 below. Updated baseline schedules
 2 adhere to the following:

- 3
- 4 1. Time extensions associated with approved contract modifications are limited to the
 5 actual amount of time the project activities are anticipated to be delayed, unless
 6 otherwise approved by the Program Manager.
- 7
- 8 2. The re-baselined schedule is submitted by the Contractor *within ten workdays* after
 9 the date of receipt of the approved Change Order.
- 10
- 11 3. The changes in logic or durations approved by the City are used to analyze the impact
 12 of the change and is included in the Change Order. The coding for a new activity(s)
 13 added to the schedule for the Change Order includes the Change Order number in the
 14 Activity ID. Use as many activities as needed to accurately show the work of the
 15 Change Order. Revisions to the baseline schedule are not effective until accepted by
 16 the City.

17 K. City’s Work Breakdown Structure

18

<u>WBS Code</u>	<u>WBS Name</u>
19 XXXXXX	Project Name
20 XXXXXX.30	Design
21 XXXXXX.30.10	Design Contractor Agreement
22 XXXXXX.30.20	Conceptual Design (30%)
23 XXXXXX.30.30	Preliminary Design (60%)
24 XXXXXX.30.40	Final Design
25 XXXXXX.30.50	Environmental
26 XXXXXX.30.60	Permits
27 XXXXXX.30.60.10	Permits - Identification
28 XXXXXX.30.60.20	Permits - Review/Approve
29 XXXXXX.40	ROW & Easements
30 XXXXXX.40.10	ROW Negotiations
31 XXXXXX.40.20	Condemnation
32 XXXXXX.70	Utility Relocation
33 XXXXXX.70.10	Utility Relocation Co-ordination
34 XXXXXX.80	Construction
35 XXXXXX.80.81	Bid and Award
36 XXXXXX.80.83	Construction Execution
37 XXXXXX.80.85	Inspection
38 XXXXXX.80.86	Landscaping
39 XXXXXX.90	Closeout
40 XXXXXX.90.10	Construction Contract Close-out
41 XXXXXX.90.40	Design Contract Closure

42

43 L. City’s Standard Milestones

44 The following milestone activities (i.e., important events on a project that mark critical
 45 points in time) are of particular interest to the City and must be reflected in the project
 46 schedule for all phases of work.

47

	<u>Activity ID</u>	<u>Activity Name</u>
1		
2		Design
3	3020	Award Design Agreement
4	3040	Issue Notice to Proceed - Design Engineer
5	3100	Design Kick-off Meeting
6	3120	Submit Conceptual Plans to Utilities, ROW, Traffic, Parks, Storm Water,
7		Water & Sewer
8	3150	Peer Review Meeting/Design Review meeting (technical)
9	3160	Conduct Design Public Meeting #1 (required)
10	3170	Conceptual Design Complete
11	3220	Submit Preliminary Plans and Specifications to Utilities, ROW, Traffic,
12		Parks, Storm Water, Water & Sewer
13	3250	Conduct Design Public Meeting #2 (required)
14		3260 Preliminary Design Complete
15	3310	Submit Final Design to Utilities, ROW, Traffic, Parks, Storm Water,
16		Water & Sewer
17	3330	Conduct Design Public Meeting #3 (if required)
18	3360	Final Design Complete
19		ROW & Easements
20	4000	Right of Way Start
21	4230	Right of Way Complete
22		Utility Relocation
23	7000	Utilities Start
24	7120	Utilities Cleared/Complete
25		Construction
26		Bid and Award
27	8110	Start Advertisement
28	8150	Conduct Bid Opening
29	8240	Award Construction Contract
30		Construction Execution
31	8330	Conduct Construction Public Meeting #4 Pre-Construction
32	8350	Construction Start
33	8370	Substantial Completion
34	8540	Construction Completion
35	9130	Notice of Completion/Green Sheet
36	9150	Construction Contract Closed
37	9420	Design Contract Closed

38

39 **1.4 SUBMITTALS**

40 A. Schedule Submittal & Review

41 The City's Project Manager is responsible for reviews and acceptance of the Contractor's
 42 schedule. The City's Project Control Specialist is responsible for ensuring alignment of
 43 the Contractor's baseline and progress schedules with the Master Project Schedule as
 44 support to the City's Project Manager. The City reviews and accepts or rejects the
 45 schedule *within ten workdays* of Contractor's submittal.

46

- 1 1. Schedule Format
2 The Contractor will submit each schedule in two electronic forms, one in native file
3 format (.xer, .xml, .mpx) and the second in a *pdf* format, in the City's document
4 management system in the location dedicated for this purpose and identified by the
5 Project Manager. In the event the Contractor does not use Primavera P6 or MS
6 Project for scheduling purposes, the schedule information must be submitted in .xls or
7 .xlsx format in compliance with the sample layout (See Specification 01 32 16.1
8 Construction Project Schedule Baseline Example), including activity predecessors,
9 successors and total float.
10
- 11 2. Initial & Baseline Schedule
12 The Contractor will develop their schedule for their scope of work and submit their
13 initial schedule in electronic form (in the file formats noted above), in the City's
14 document management system in the location dedicated for this purpose *at least 5*
15 *working days prior to Pre Construction Meeting.*
16
17 The City's Project Manager and Project Control Specialist review this initial schedule
18 to determine alignment with the City's Master Project Schedule, including format &
19 WBS structure. Following the City's review, feedback is provided to the Contractor
20 for their use in finalizing their initial schedule and issuing (*within five workdays*) their
21 Baseline Schedule for final review and acceptance by the City.
22
- 23 3. Progress Schedule
24 The Contractor will update and issue their project schedule (Progress Schedule) *by the*
25 *last day of each month* throughout the life of their work on the project. The Progress
26 Schedule is submitted in electronic form as noted above, in the City's document
27 management system in the location dedicated for this purpose.
28
29 The City's Project Control team reviews each Progress Schedule for data and
30 information that support the assessment of the update to the schedule. In the event
31 data or information is missing or incomplete, the Project Controls Specialist
32 communicates directly with the Contractor's scheduler for providing same. The
33 Contractor re-submits the corrected Progress Schedule *within 5 workdays*, following
34 the submittal process noted above. The City's Project Manager and Project Control
35 Specialist review the Contractor's progress schedule for acceptance and to monitor
36 performance and progress.
37
38 The following list of items are required to ensure proper status information is
39 contained in the Progress Schedule.
40 • Baseline Start date
41 • Baseline Finish Date
42 • % Complete
43 • Float
44 • Activity Logic (dependencies)
45 • Critical Path
46 • Activities added or deleted
47 • Expected Baseline Finish date
48 • Variance to the Baseline Finish Date
49

1 B. Monthly Construction Status Report
2 The Contractor submits a written status report (referred to as a progress narrative) at the
3 monthly progress meeting (if monthly meetings are held) or at the end of each month to
4 accompany the Progress Schedule submittal, using the standard format provided in
5 Specification 01 32 16.3 Construction Project Schedule Progress Narrative. The content
6 of the Construction Project Schedule Progress Narrative should be concise and complete
7 to include only changes, delays, and anticipated problems.
8

9 C. Submittal Process

- 10 • Schedules and Monthly Construction Status Reports are submitted in in the City's
- 11 document management system in the location dedicated for this purpose.
- 12 • Once the project has been completed and Final Acceptance has been issued by the
- 13 City, no further progress schedules or construction status reports are required from
- 14 the Contractor.

15 1.

16 **1.5 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]**

17 **1.6 CLOSEOUT SUBMITTALS [NOT USED]**

18 **1.7 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]**

19 **1.8 QUALITY ASSURANCE**

- 20 A. The person preparing and revising the construction Progress Schedule shall be
- 21 experienced in the preparation of schedules of similar complexity.
- 22 B. Schedule and supporting documents addressed in this Specification shall be prepared,
- 23 updated and revised to accurately reflect the performance of the construction.
- 24 C. Contractor is responsible for the quality of all submittals in this section meeting the
- 25 standard of care for the construction industry for similar projects.

26 **1.9 DELIVERY, STORAGE, AND HANDLING [NOT USED]**

27 **1.10 FIELD [SITE] CONDITIONS [NOT USED]**

28 **1.11 WARRANTY [NOT USED]**

29 **1.12 ATTACHMENTS**

- 30 Spec 01 32 16.1 Construction Project Schedule Baseline Example
- 31 Spec 01 32 16.2 Construction Project Schedule Progress Example
- 32 Spec 01 32 16.3 Construction Project Schedule Progress Narrative
- 33

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2 **PART 2 - PRODUCTS [NOT USED]**

3 **PART 3 - EXECUTION [NOT USED]**

4

END OF SECTION

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Revision Log		
DATE	NAME	SUMMARY OF CHANGE
8/13/2021	Michael Owen	Revised to update specification requirements and eliminate duplicate schedule specifications.

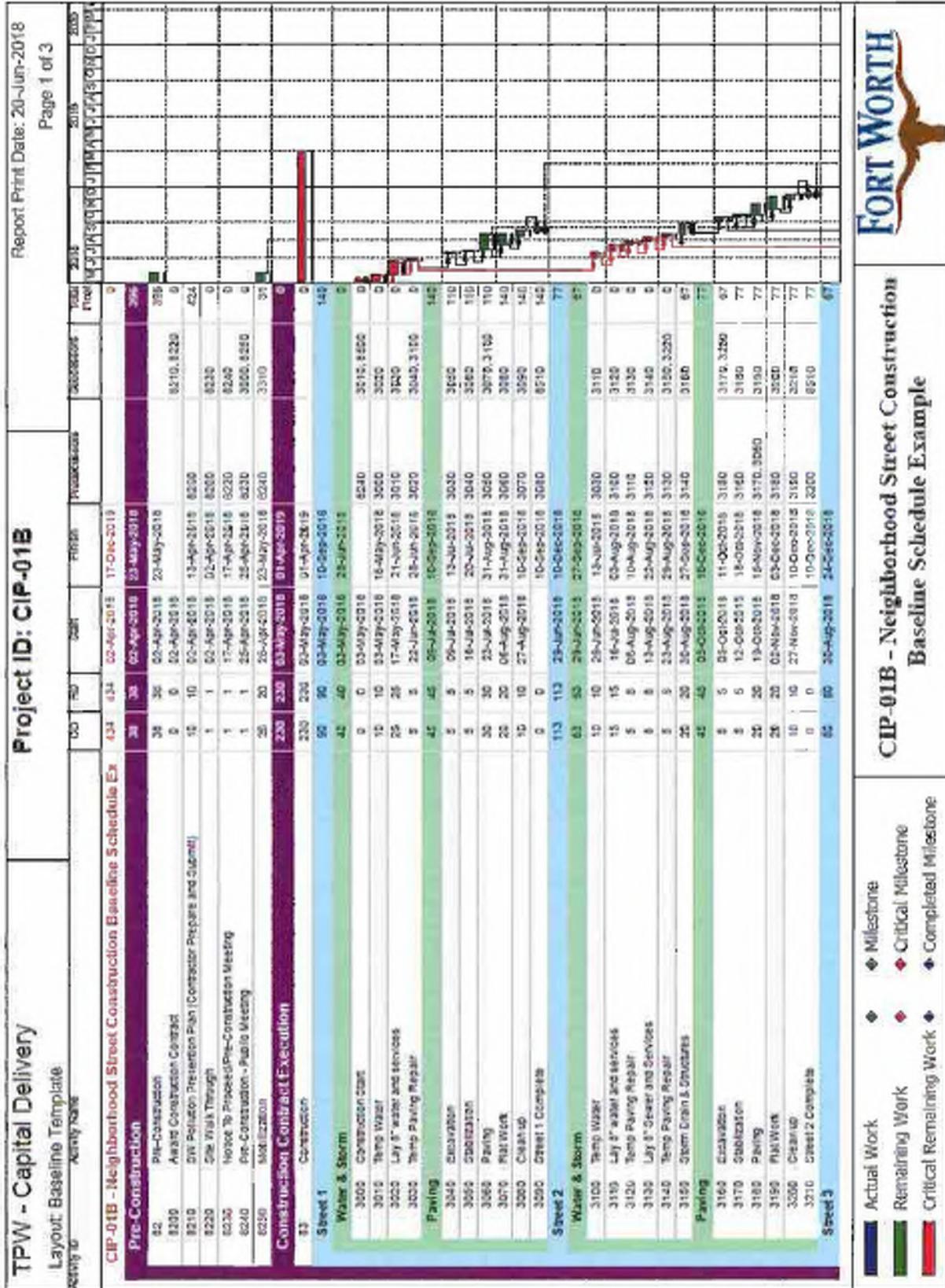
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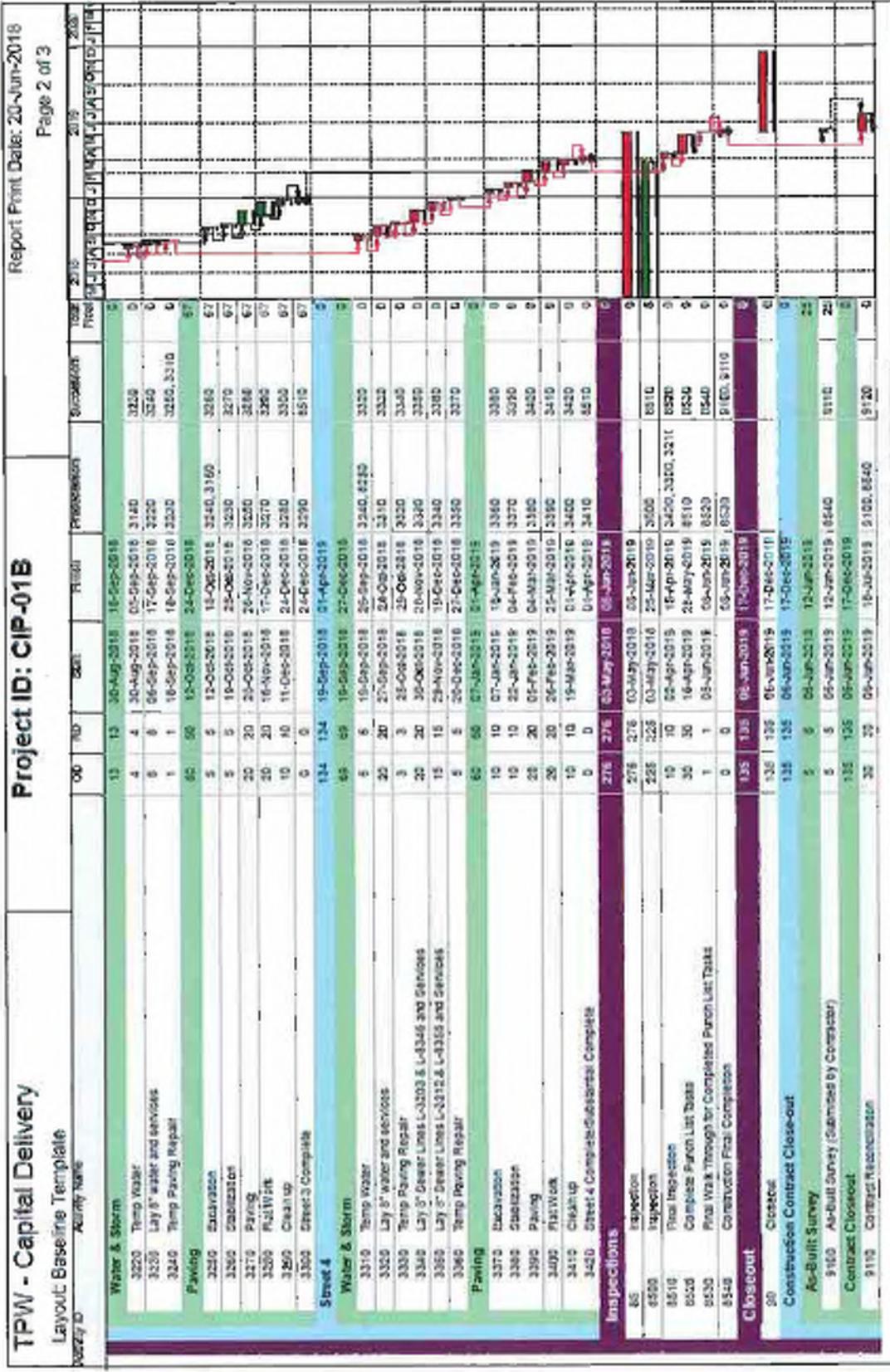
SECTION 01 32 16.1
CONSTRUCTION SCHEDULE – BASELINE EXAMPLE

PART 1 - GENERAL

The following is an example of a Contractor’s project schedule that illustrates the data and expectation for schedule content depicting the baseline for the project. This version of the schedule is referred to as a “baseline” schedule. This example is intended to provide guidance for the Contractor when developing and submitting a baseline schedule. See CFW Specification 01 32 16 Construction Schedule for details and requirements regarding the Contractor’s project schedule.



1
2



CIP-01B - Neighborhood Street Construction
Baseline Schedule Example

- Actual Work
- Remaining Work
- Critical Remaining Work
- ◆ Milestone
- ◆ Critical Milestone
- ◆ Completed Milestone

TPW - Capital Delivery		Project ID: CIP-01B										Report Print Date: 20-Jun-2018
Layout: Baseline Template												Page 3 of 3
Activity ID	Activity Name	OU	TO	START	FINISH	PREDECESSORS	SUCCESSORS	YEAR	FINISH	2018	2019	2020
9120	Submittals (Project Closeout Documentation)	38	38	19-Jul-2019	11-Sep-2019	9110	9130	D				
9130	Notice of Completion/Green Sheet	0	0	23-Oct-2018	9120	9140	9140	D				
9140	Final Construction Contract Invoice Paid	1	1	14-Nov-2019	14-Nov-2019	9130	9160	D				
9160	Construction Contract Closed	0	0	14-Nov-2019	9140	9160	9160	D				
9160	Lessons Learned	1	1	17-Dec-2019	17-Dec-2019	9160		D				

	Actual Work		Milestone
	Remaining Work		Critical Milestone
	Critical Remaining Work		Completed Milestone

 FORT WORTH	
CIP-01B - Neighborhood Street Construction Baseline Schedule Example	

END OF SECTION

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Revision Log		
DATE	NAME	SUMMARY OF CHANGE
July 20, 2018	M. Jarrell	Initial Issue
May 7, 2021	M Owen	Revised name due to revising the schedule specification

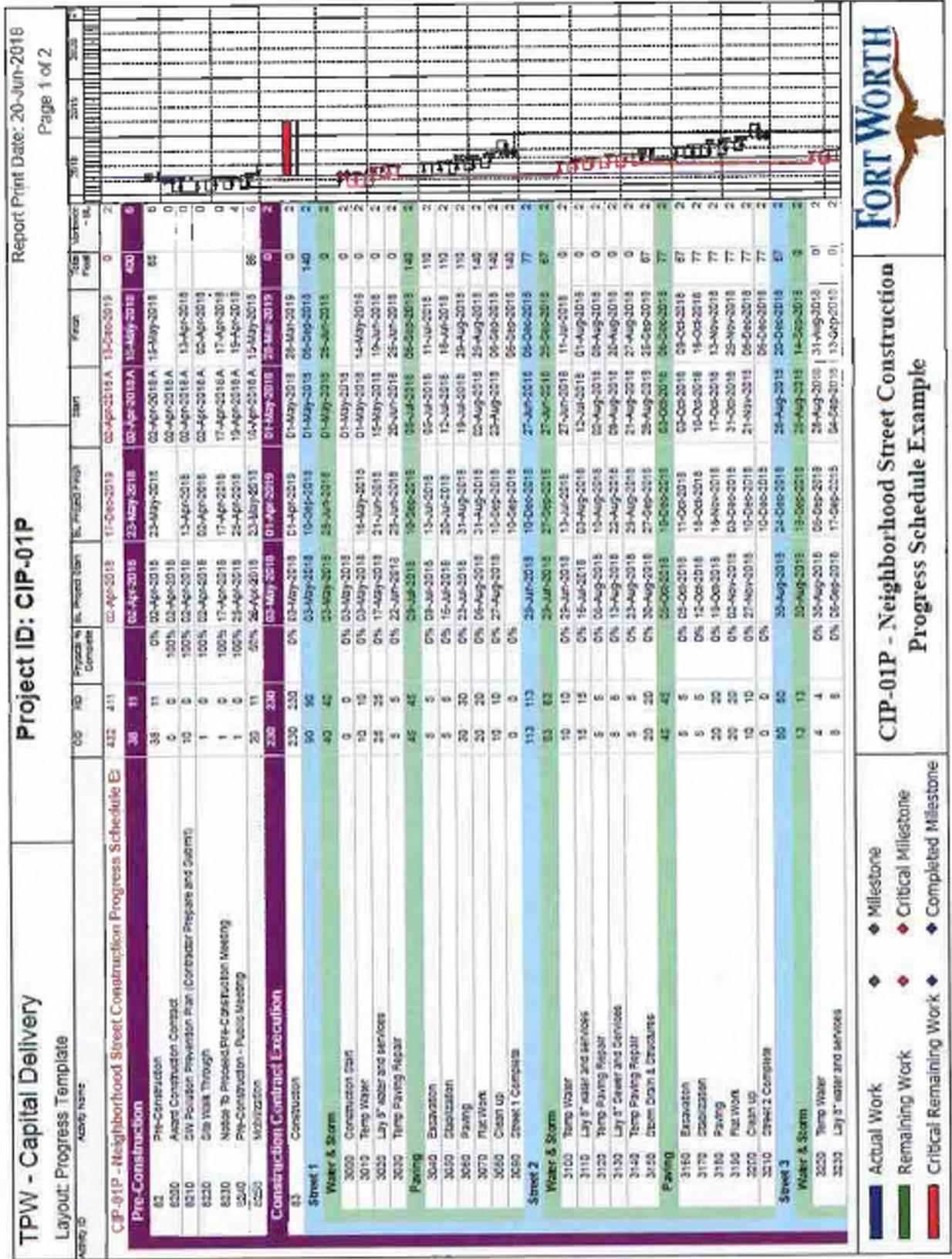
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SECTION 01 32 16.2
CONSTRUCTION SCHEDULE – PROGRESS EXAMPLE

PART 1 - GENERAL

The following is an example of a Contractor’s project schedule that illustrates the data and expectation for schedule content depicting the progress for the project. This version of the schedule is referred to as a “progress” schedule. This example is intended to provide guidance for the Contractor when developing and submitting a progress schedule. See CFW Specification 01 32 16 Construction Schedule for details and requirements regarding the Contractor’s project schedule.



END OF SECTION

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Revision Log		
DATE	NAME	SUMMARY OF CHANGE
July 20, 2018	M. Jarrell	Initial Issue
May 7, 2021	M Owen	Revised name due to revising the schedule specification

6

SECTION 01 32 16.3
CONSTRUCTION PROJECT SCHEDULE PROGRESS NARRATIVE

Reporting Period:	Date Issued:
Project Name:	Contractor Company Name:
City Project No:	Contractor Schedule Contact:
City Project Manager:	

A. List of activities changed in the reporting period.

1. (insert text here)
2. (insert text here)
3. (insert text here)
4. (insert text here)
5. (insert text here)
6. (insert text here)

B. List any potential delays and provide mitigation actions

1. (insert text here)
2. (insert text here)
3. (insert text here)

C. List any actual delays and provide recovery actions

1. (insert text here)
2. (insert text here)
3. (insert text here)

SECTION 01 32 33
PRECONSTRUCTION VIDEO

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Administrative and procedural requirements for:
 - a. Preconstruction Videos
- B. Deviations from this City of Fort Worth Standard Specification
 - 1. None.
- C. Related Specification Sections include, but are not necessarily limited to:
 - 1. Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract
 - 2. Division 1 – General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
 - 1. Work associated with this Item is considered subsidiary to the various items bid.
No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

- A. Preconstruction Video
 - 1. Produce a preconstruction video of the site/alignment, including all areas in the vicinity of and to be affected by construction.
 - a. Provide digital copy of video upon request by the City.
 - 2. Retain a copy of the preconstruction video until the end of the maintenance surety period.

1.5 SUBMITTALS [NOT USED]

1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]

1.7 CLOSEOUT SUBMITTALS [NOT USED]

1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]

1.9 QUALITY ASSURANCE [NOT USED]

1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]

1.11 FIELD [SITE] CONDITIONS [NOT USED]

1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

SECTION 01 33 00
SUBMITTALS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. General methods and requirements of submissions applicable to the following Work-related submittals:
 - a. Shop Drawings
 - b. Product Data (including Standard Product List submittals)
 - c. Samples
 - d. Mock Ups
- B. Deviations from this City of Fort Worth Standard Specification
 - 1. None.
- C. Related Specification Sections include, but are not necessarily limited to:
 - 1. Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract
 - 2. Division 1 – General Requirements

1.2 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
 - 1. Work associated with this Item is considered subsidiary to the various items bid. No separate payment will be allowed for this Item.

1.3 REFERENCES [NOT USED]

1.4 ADMINISTRATIVE REQUIREMENTS

- A. Coordination
 - 1. Notify the City in writing, at the time of submittal, of any deviations in the submittals from the requirements of the Contract Documents.
 - 2. Coordination of Submittal Times
 - a. Prepare, prioritize and transmit each submittal sufficiently in advance of performing the related Work or other applicable activities, or within the time specified in the individual Work Sections, of the Specifications.
 - b. Contractor is responsible such that the installation will not be delayed by processing times including, but not limited to:
 - a) Disapproval and resubmittal (if required)
 - b) Coordination with other submittals
 - c) Testing
 - d) Purchasing
 - e) Fabrication
 - f) Delivery
 - g) Similar sequenced activities
 - c. No extension of time will be authorized because of the Contractor's failure to transmit submittals sufficiently in advance of the Work.

- d. Make submittals promptly in accordance with approved schedule, and in such sequence as to cause no delay in the Work or in the work of any other contractor.

B. Submittal Numbering

1. When submitting shop drawings or samples, utilize a 9-character submittal cross-reference identification numbering system in the following manner:
 - a. Use the first 6 digits of the applicable Specification Section Number.
 - b. For the next 2 digits number use numbers 01-99 to sequentially number each initial separate item or drawing submitted under each specific Section number.
 - c. Last use a letter, A-Z, indicating the resubmission of the same drawing (i.e. A=2nd submission, B=3rd submission, C=4th submission, etc.). A typical submittal number would be as follows:

03 30 00-08-B

- 1) 03 30 00 is the Specification Section for Concrete
- 2) 08 is the eighth initial submittal under this Specification Section
- 3) B is the third submission (second resubmission) of that particular shop drawing

C. Contractor Certification

1. Review shop drawings, product data and samples, including those by subcontractors, prior to submission to determine and verify the following:
 - a. Field measurements
 - b. Field construction criteria
 - c. Catalog numbers and similar data
 - d. Conformance with the Contract Documents
2. Provide each shop drawing, sample and product data submitted by the Contractor with a Certification Statement affixed including:
 - a. The Contractor's Company name
 - b. Signature of submittal reviewer
 - c. Certification Statement
 - 1) "By this submittal, I hereby represent that I have determined and verified field measurements, field construction criteria, materials, dimensions, catalog numbers and similar data and I have checked and coordinated each item with other applicable approved shop drawings."

D. Submittal Format

1. Fold shop drawings larger than 8 ½ inches x 11 inches to 8 ½ inches x 11 inches.
2. Bind shop drawings and product data sheets together.
3. Order
 - a. Cover Sheet
 - 1) Description of Packet
 - 2) Contractor Certification
 - b. List of items / Table of Contents
 - c. Product Data /Shop Drawings/Samples /Calculations

E. Submittal Content

1. The date of submission and the dates of any previous submissions

2. The Project title and number
3. Contractor identification
4. The names of:
 - a. Contractor
 - b. Supplier
 - c. Manufacturer
5. Identification of the product, with the Specification Section number, page and paragraph(s)
6. Field dimensions, clearly identified as such
7. Relation to adjacent or critical features of the Work or materials
8. Applicable standards, such as ASTM or Federal Specification numbers
9. Identification by highlighting of deviations from Contract Documents
10. Identification by highlighting of revisions on resubmittals
11. An 8-inch x 3-inch blank space for Contractor and City stamps

F. Shop Drawings

1. As specified in individual Work Sections includes, but is not necessarily limited to:
 - a. Custom-prepared data such as fabrication and erection/installation (working) drawings
 - b. Scheduled information
 - c. Setting diagrams
 - d. Actual shopwork manufacturing instructions
 - e. Custom templates
 - f. Special wiring diagrams
 - g. Coordination drawings
 - h. Individual system or equipment inspection and test reports including:
 - 1) Performance curves and certifications
 - i. As applicable to the Work
2. Details
 - a. Relation of the various parts to the main members and lines of the structure
 - b. Where correct fabrication of the Work depends upon field measurements
 - 1) Provide such measurements and note on the drawings prior to submitting for approval.

G. Product Data

1. For submittals of product data for products included on the City's Standard Product List, clearly identify each item selected for use on the Project.
2. For submittals of product data for products not included on the City's Standard Product List, submittal data may include, but is not necessarily limited to:
 - a. Standard prepared data for manufactured products (sometimes referred to as catalog data)
 - 1) Such as the manufacturer's product specification and installation instructions
 - 2) Availability of colors and patterns
 - 3) Manufacturer's printed statements of compliances and applicability
 - 4) Roughing-in diagrams and templates
 - 5) Catalog cuts
 - 6) Product photographs

- 7) Standard wiring diagrams
- 8) Printed performance curves and operational-range diagrams
- 9) Production or quality control inspection and test reports and certifications
- 10) Mill reports
- 11) Product operating and maintenance instructions and recommended spare-parts listing and printed product warranties
- 12) As applicable to the Work

H. Samples

1. As specified in individual Sections, include, but are not necessarily limited to:
 - a. Physical examples of the Work such as:
 - 1) Sections of manufactured or fabricated Work
 - 2) Small cuts or containers of materials
 - 3) Complete units of repetitively used products color/texture/pattern swatches and range sets
 - 4) Specimens for coordination of visual effect
 - 5) Graphic symbols and units of Work to be used by the City for independent inspection and testing, as applicable to the Work
 - I. Do not start Work requiring a shop drawing, sample or product data nor any material to be fabricated or installed prior to the approval or qualified approval of such item.
 1. Fabrication performed, materials purchased or on-site construction accomplished which does not conform to approved shop drawings and data is at the Contractor's risk.
 2. The City will not be liable for any expense or delay due to corrections or remedies required to accomplish conformity.
 3. Complete project Work, materials, fabrication, and installations in conformance with approved shop drawings, applicable samples, and product data.

J. Submittal Distribution

1. Electronic Distribution
 - a. Confirm development of Project directory for electronic submittals to be uploaded to City's Buzzsaw site, or another external FTP site approved by the City.
 - b. Shop Drawings
 - 1) Upload submittal to designated project directory and notify appropriate City representatives via email of submittal posting.
 - 2) Hard Copies
 - a) 3 copies for all submittals
 - b) If Contractor requires more than 1 hard copy of Shop Drawings returned, Contractor shall submit more than the number of copies listed above.
 - c. Product Data
 - 1) Upload submittal to designated project directory and notify appropriate City representatives via email of submittal posting.
 - 2) Hard Copies
 - a) 3 copies for all submittals
 - d. Samples
 - 1) Distributed to the Project Representative
2. Hard Copy Distribution (if required in lieu of electronic distribution)

- a. Shop Drawings
 - 1) Distributed to the City
 - 2) Copies
 - a) 8 copies for mechanical submittals
 - b) 7 copies for all other submittals
 - c) If Contractor requires more than 3 copies of Shop Drawings returned, Contractor shall submit more than the number of copies listed above.
 - b. Product Data
 - 1) Distributed to the City
 - 2) Copies
 - a) 4 copies
 - c. Samples
 - 1) Distributed to the Project Representative
 - 2) Copies
 - a) Submit the number stated in the respective Specification Sections.
3. Distribute reproductions of approved shop drawings and copies of approved product data and samples, where required, to the job site file and elsewhere as directed by the City.
- a. Provide number of copies as directed by the City but not exceeding the number previously specified.

K. Submittal Review

1. The review of shop drawings, data and samples will be for general conformance with the design concept and Contract Documents. This is not to be construed as:
 - a. Permitting any departure from the Contract requirements
 - b. Relieving the Contractor of responsibility for any errors, including details, dimensions, and materials
 - c. Approving departures from details furnished by the City, except as otherwise provided herein
2. The review and approval of shop drawings, samples or product data by the City does not relieve the Contractor from his/her responsibility with regard to the fulfillment of the terms of the Contract.
 - a. All risks of error and omission are assumed by the Contractor, and the City will have no responsibility therefore.
3. The Contractor remains responsible for details and accuracy, for coordinating the Work with all other associated work and trades, for selecting fabrication processes, for techniques of assembly and for performing Work in a safe manner.
4. If the shop drawings, data or samples as submitted describe variations and show a departure from the Contract requirements which City finds to be in the interest of the City and to be so minor as not to involve a change in Contract Price or time for performance, the City may return the reviewed drawings without noting an exception.
5. Submittals will be returned to the Contractor under 1 of the following codes:
 - a. Code 1
 - 1) "NO EXCEPTIONS TAKEN" is assigned when there are no notations or comments on the submittal.
 - a) When returned under this code the Contractor may release the equipment and/or material for manufacture.
 - b. Code 2

- 1) "EXCEPTIONS NOTED". This code is assigned when a confirmation of the notations and comments IS NOT required by the Contractor.
 - a) The Contractor may release the equipment or material for manufacture; however, all notations and comments must be incorporated into the final product.
 - c. Code 3
 - 1) "EXCEPTIONS NOTED/RESUBMIT". This combination of codes is assigned when notations and comments are extensive enough to require a resubmittal of the package.
 - a) The Contractor may release the equipment or material for manufacture; however, all notations and comments must be incorporated into the final product.
 - b) This resubmittal is to address all comments, omissions and non-conforming items that were noted.
 - c) Resubmittal is to be received by the City within 15 Calendar Days of the date of the City's transmittal requiring the resubmittal.
 - d. Code 4
 - 1) "NOT APPROVED" is assigned when the submittal does not meet the intent of the Contract Documents.
 - a) The Contractor must resubmit the entire package revised to bring the submittal into conformance.
 - b) It may be necessary to resubmit using a different manufacturer/vendor to meet the Contract Documents.
6. Resubmittals
- a. Handled in the same manner as first submittals
 - 1) Corrections other than requested by the City
 - 2) Marked with revision triangle or other similar method
 - a) At Contractor's risk if not marked
 - b. Submittals for each item will be reviewed no more than twice at the City's expense.
 - 1) All subsequent reviews will be performed at times convenient to the City and at the Contractor's expense, based on the City's or City Representative's then prevailing rates.
 - 2) Provide Contractor reimbursement to the City within 30 Calendar Days for all such fees invoiced by the City.
 - c. The need for more than 1 resubmission or any other delay in obtaining City's review of submittals, will not entitle the Contractor to an extension of Contract Time.
7. Partial Submittals
- a. City reserves the right to not review submittals deemed partial, at the City's discretion.
 - b. Submittals deemed by the City to be not complete will be returned to the Contractor, and will be considered "Not Approved" until resubmitted.
 - c. The City may at its option provide a list or mark the submittal directing the Contractor to the areas that are incomplete.
8. If the Contractor considers any correction indicated on the shop drawings to constitute a change to the Contract Documents, then written notice must be provided thereof to the City at least 7 Calendar Days prior to release for manufacture.

9. When the shop drawings have been completed to the satisfaction of the City, the Contractor may carry out the construction in accordance therewith and no further changes therein except upon written instructions from the City.
10. Each submittal, appropriately coded, will be returned within 30 Calendar Days following receipt of submittal by the City.

L. Mock ups

1. Mock Up units as specified in individual Sections, include, but are not necessarily limited to, complete units of the standard of acceptance for that type of Work to be used on the Project. Remove at the completion of the Work or when directed.

M. Qualifications

1. If specifically required in other Sections of these Specifications, submit a P.E. Certification for each item required.

N. Request for Information (RFI)

1. Contractor Request for additional information
 - a. Clarification or interpretation of the contract documents
 - b. When the Contractor believes there is a conflict between Contract Documents
 - c. When the Contractor believes there is a conflict between the Drawings and Specifications
 - 1) Identify the conflict and request clarification
2. Use the Request for Information (RFI) form provided by the City.
3. Numbering of RFI
 - a. Prefix with "RFI" followed by series number, "-xxx", beginning with "01" and increasing sequentially with each additional transmittal.
4. Sufficient information shall be attached to permit a written response without further information.
5. The City will log each request and will review the request.
 - a. If review of the project information request indicates that a change to the Contract Documents is required, the City will issue a Field Order or Change Order, as appropriate.

1.5 SUBMITTALS [NOT USED]

1.6 ACTION SUBMITTALS/INFORMATIONAL SUBMITTALS [NOT USED]

1.7 CLOSEOUT SUBMITTALS [NOT USED]

1.8 MAINTENANCE MATERIAL SUBMITTALS [NOT USED]

1.9 QUALITY ASSURANCE [NOT USED]

1.10 DELIVERY, STORAGE, AND HANDLING [NOT USED]

1.11 FIELD [SITE] CONDITIONS [NOT USED]

1.12 WARRANTY [NOT USED]

PART 2 - PRODUCTS [NOT USED]

PART 3 - EXECUTION [NOT USED]

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE
12/20/2012	D. Johnson	1.4.K.8. Working Days modified to Calendar Days